

SCRep. 533-82 Finance on H.B. No. 2917-82

The purpose of this bill is to establish a state food coupon program for eligible elderly persons with low incomes.

Many elderly persons receiving financial assistance are having difficulty in maintaining a decent standard of living because of the inadequacy of the amounts of financial assistance granted. As the cost-of-living rises, the inadequacy is intensified and elderly persons are forced to reduce expenses further. Expenses for food are among the first to be reduced since it is a flexible component of living expenses. Expenses are reduced by purchasing cheaper food or purchasing less.

A point, however, is reached where elderly persons cannot find cheaper food or when further reduction in nutritional intake becomes dangerous. At this point, food expenses cannot be reduced. Your Committee is committed to preventing any elderly person from reaching this point and concurs that \$4,000,000 be appropriated to this program.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2917-82, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Fukunaga, G. Hagino and Okamura.

SCRep. 534-82 Finance on H.B. No. 2540-82

The purpose of this bill is to authorize the Department of Budget and Finance to issue special purpose revenue bonds in the amount of \$20,000,000 to assist Queen's Medical Center in the financing or refinancing of its health care facility.

Queen's Medical Center, a not-for-profit corporation, provides health care facilities to the general public. The facility that is proposed has received certificate of need approval by the State Health Planning and Development Agency.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2540-82 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Fukunaga, G. Hagino and Okamura.

SCRep. 535-82 Finance on H.B. No. 2318-82

The purpose of this bill is to transfer the Intake Service Center (ISC), its board, and its statutory functions to the Judiciary Branch. Furthermore, the Intake Service Center Board shall advise and recommend policies, directions, priorities, and procedures for the operation of intake service centers to the Chief Justice.

Under present law the ISC is administered by the Department of Social Services and Housing under the Executive Branch. This arrangement has caused jurisdictional problems and duplication of services between the ISC and the Judiciary.

Your Committee is in agreement with the Executive and Judiciary Branches that the transfer of the ISC in total to the Judiciary Branch will enhance the efficiency of the criminal justice system. The consolidation of certain functions and resources of the ISC and the Judiciary will reduce fragmentation and duplication of services.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2318-82 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Fukunaga, G. Hagino and Okamura.

SCRep. 536-82 Finance on H.B. No. 2349-82

The purpose of this bill is to amend section 88-122, Hawaii Revised Statutes, to continue the actuarial valuation of the employer's normal cost and accrued liability contributions to the retirement funds at the rate of seven per cent for 1982 and subsequent years.

The continuation will mean that the higher proportion of the investment returns from the retirement funds will continue to accrue to the funds, which should significantly benefit the retirement system and ultimately the members of the Employees' Retirement System of the State of Hawaii.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2349-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 537-82      Finance on H.B. No. 2848-82

The purpose of this bill is to clarify the law, Hawaii Revised Statutes Section 79-8, to maintain the current practice of excepting persons serving emergency appointments from earning sick leave pay.

Emergency appointments should not be entitled to earn sick leave pay because of the short-term and as-needed basis of the emergency appointment. Their employment was basically to meet the need for immediate services to prevent work stoppage of essential business. The absence of an emergency appointment does not fulfill the purpose of their employment and thus, should not be eligible for sick leave pay.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2848-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 538-82      Finance on H.B. No. 2969-82

The purpose of this bill is to make the budgeting process of the Office of Hawaiian Affairs (OHA), coincide with the rest of the State.

OHA is now required to submit a budget annually. All other state agencies submit biennial budgets in odd-numbered years, with supplemental requests, if necessary, in even-numbered years.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2969-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 539-82      Housing on H.B. No. 473

The purpose of this bill is to encourage construction of lower cost housing through joint State and private effort.

The amended purpose of this bill is to update the statute which governs county housing powers.

Under Section 46-15.1, Hawaii Revised Statutes, the counties are granted the same housing powers and are subject to the same limitations as the Hawaii Housing Authority under Chapter 359G. However, Section 46-15.1 provides that county housing powers shall not be altered by any amendment to Chapter 359G enacted after 1974. The counties have thus been unable to take advantage of new housing provisions enacted by the Legislature since 1974. This bill would correct this inconsistency in the statutes.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 473, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 473, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Wong.

SCRep. 540-82      Housing on H.B. No. 3142-82

The purpose of this bill is to increase the income limits for eligibility under the Housing Loan and Mortgage Program.

The provisions of the Housing Loan and Mortgage (Hula Mae) Program currently require the Hawaii Housing Authority to use 125 percent of the median income in the state as most recently published by the U.S. Department of Health, Education and Welfare (HEW) as the income limit for the Hula Mae program.

The successor agency to HEW, the U.S. Department of Health and Human Services (HHS), will, from all indications, be ceasing the publication of a median income schedule because the social service programs it provided eligibility criteria for will soon be terminated. The use of the outdated median income schedule last published in November 1980, when coupled with today's high interest rates has produced an inadequate number of eligible households who qualify for Hula Mae loans. Your Committee is concerned that the shrinking pool of eligible households may jeopardize the entire Hula Mae program.

Your Committee recommends that this bill be amended by clarifying that the 150 per cent be applied to the November 1980 median income schedule. Your Committee is concerned that in the event that a new schedule is published, the 150 per cent figure will result in a target group with higher incomes than desired by the Legislature.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 3142-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3142-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Wong.

SCRep. 541-82      Public Assistance and Human Services and Judiciary on  
H.B. No. 2239-82

The purpose of this bill is to amend section 346-10, Hawaii Revised Statutes, by including the protection of social service records and confidential information as well as information on foster parents, adoptive parents, foster care facilities and their location. This bill also clearly defines the individuals, agencies and organizations to whom information may be disclosed and the conditions under which the information may be provided.

The proposed amendment to the statutes will clearly protect the Department of Social Services and Housing's records and confidential information regarding applicants and recipients of social services. DSSH will also be permitted to disclose confidential information to the proper authorities when needed in investigation, prosecution, the administration of plans or programs of the division, such as Medicaid, AFDC, child support, adult day care, and adult boarding homes. DSSH may also withhold information to protect the identity of foster and adoptive parents and location of foster care and adoptive homes and facilities.

The present law can be interpreted to exclude the social service program and to cover only income maintenance, medical and food stamps programs. Testimony by DSSH stated that it was necessary to add the term "social services" to paragraphs (1) and (2) of HRS §346-10 to provide the same protection to all persons and programs.

In regard to disclosure of information in determining eligibility for public assistance, your Committees have amended the bill to include recovery of payments from third parties. Therefore, your Committees have amended the bill by adding on page 3, line 13 after the word "needed": "to recover payments from third persons who are or may be liable for reimbursement of payments to the applicant, recipient, or State".

Your Committees have also amended page 6 by deleting "staff parents" on line 7 and "staff" on line 11. These changes more accurately reflect the intent to protect foster care facility identifications, and not necessarily those who staff the facility. In addition, your Committees believe that there are instances in which disclosures of information may be in the best interests of the child-parent relationship. Consequently, your Committees have included in the amendments in this section, on page 6, lines 6 through 16, time limits after which information may be disclosed and court procedures to restrict or prohibit such disclosure.

Your Committees have also made technical, non-substantive changes to the bill.

Your Committees on Public Assistance and Human Services and Judiciary are in accord with the intent and purpose of H.B. No. 2239-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2239-82, H.D.

1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 542-82      Judiciary on H.B. No. 2750-82

The purpose of this bill is to amend Section 706-666, Hawaii Revised Statutes, to establish the finality of a conviction, including adjudication involving juveniles in the Family Court, for purpose of imposing extended term sentences.

Present law provides that a conviction is not final until the "time to appeal has expired." The courts have interpreted this to mean that a conviction is not valid for purposes of imposing extended term sentences (Section 706-662, Hawaii Revised Statutes) until appeals are exhausted. Two to three years frequently elapse before a criminal appeal is concluded, during which time extended term sentencing cannot be imposed.

Testimony submitted by the Honolulu Prosecuting Attorney's Office indicated that many convicted criminals are filing multiple appeals simply to avoid being sentenced to extended terms for second or third convictions, thereby defeating the sentencing provisions of Section 706-662 as they apply to persistent offenders, professional criminals or multiple offenders.

While recognizing that the convicted person's right to appeal must be safeguarded, your Committee feels that this bill is needed to assure that statutory criteria for imposing extended terms upon serious criminal offenders are not circumvented.

Your Committee finds that the inclusion of Section 571-22, Hawaii Revised Statutes, in this bill contradicts provisions of Section 571-1 of the Statutes that specifically state that no adjudication of a minor by the Family Court shall be deemed a conviction. Therefore, your Committee amended the bill by deleting any reference to Section 571-22.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2750-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2750-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 543-82      Judiciary on H.B. No. 2232-82

The purpose of this bill is to amend Section 291C-196 of the Hawaii Revised Statutes to allow moped drivers to ride on other than the extreme right side of the roadway under certain conditions, when it is in the interest of safety to do so.

The present law specifies that mopeds shall be operated only on the right side of the roadway. The bill provides that mopeds traveling at speeds less than the normal speed of traffic moving in the same direction may ride on other than the extreme right when preparing for a left turn, when it is reasonably necessary to avoid unsafe conditions, or when a roadway has two or more lanes and is designated as a one-way street.

Your Committee has received favorable testimony from the Department of Transportation and moped riders and believes that the passage of this bill will improve road safety.

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

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2232-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2232-82, H.D. 1.

Signed by all members of the Committee.

SCRep. 544-82      Consumer Protection and Commerce and Judiciary on H.B. No. 3140-82

The purpose of this bill is to more clearly define the duties of the Board of Medical Examiners in relation to the Department of Regulatory Agencies, to amend the peer review procedure, and to generally amend Chapter 453, Hawaii Revised Statutes.



This bill amends Chapter 453 in several areas:

1. Authorizes the board to delegate functions to the Department in order to separate the investigatory/prosecutorial functions from that of adjudication.
2. Establishes a medical advisory committee for the purpose of aiding the investigation of consumer complaints against medical service providers.
3. Reporting requirements of medical tort claims are amended to include those physicians who do not possess liability insurance and court clerks.
4. Additional grounds for disciplinary action are provided including sanctions taken in another state, and conviction of a criminal offense relating to the licensee's duties as a physician.
5. Requires adverse peer review committee reports to include certain information necessary for adequate review of the decision.
6. Authorize the board to subpoena through the Director of Regulatory Agencies, certain documents such as hospital records, which have previously been undiscoverable under Sections 624-25.5, and 653-8.3, Hawaii Revised Statutes. This amendment also provides confidentiality and identification safeguards.

While in agreement with the intent of the bill, your Committees have made several amendments:

1. Provisions relating to investigations by the board have been amended by redefining the scope of the director's subpoena power and the nature of the information discoverable. These amendments are designed to address concerns raised over preserving the confidentiality of certain information related to patients and physicians.
2. A new section 4 of the bill has been added to amend Section 624-25.5, Hawaii Revised Statutes, to allow for the appropriate exception to the prohibition on discovery of peer review committee records.
3. Section 663-1.7, Hawaii Revised Statutes, is amended to emphasize the duty of the board to hold peer review committee reports strictly confidential.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 3140-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3140-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Waihee.

SCRep. 545-82 Finance on H.B. No. 2400-82

The purpose of this bill is to amend section 236-5, of the Hawaii Revised Statutes, by repealing the tax rates and exemptions for spousal transfers under the state inheritance tax and substitutes in its place an unlimited exclusion for any property or income transferred to a surviving spouse.

This bill would exempt all interests passing to the surviving spouse and would lower the tax liability of direct line beneficiaries by increasing their exemption to \$250,000 from the present \$50,000. No changes are proposed for taxing the interests passing to other beneficiaries.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2400-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 546-82 Finance on H.B. No. 2932-82

The purpose of this bill is to extend the statutory period of existence of the Filipino 75th Anniversary Commission from December 31, 1981, to December 31, 1983.

Your Committee received testimony from the Commission in support of the extension to enable it to dispose of assets which it acquired during its anniversary observance.

Your Committee has amended the bill by inserting the phrase "to be known as the 75th Anniversary Commission".

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2982-82, H.D. 1 as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2932-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 547-82      Finance on H.B. No. 2879-82

The purpose of this bill is to provide the department of education statutory authority to deposit the fees collected from the users of school facilities into a separate fund.

Under present law, the department is required to deposit fees collected from the users of school facilities into the state treasury as general fund realization in accordance with section 103-2, Hawaii Revised Statutes.

Your Committee finds that the department has encouraged the use of school facilities by the public as evidenced by the number of users of facilities and the amount of fees collected. However, while minimum charges are made in accordance with the fees and charges schedule under the board of education rule 6, it is inevitable that increased use of the facilities will lead to higher costs to the department.

Your Committee believes that the department should establish guidelines and procedures that will allow the schools to participate in determining how the funds will be utilized.

Your Committee has amended this bill to clarify rule making procedure pursuant to chapter 91. Your Committee has also made nonsubstantive technical amendments.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2879-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2879-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 548-82      Finance on H.B. No. 2183-82

The purpose of this bill is to provide for the clarification of powers and duties of the marine affairs coordinator and the department of planning and economic development with respect to marine coordination functions.

Your Committee finds that if Hawaii is to capitalize on the immediate and long term opportunities to develop and utilize marine resources the total efforts of the States' planning, research, development and promotion of the marine environment needs to be effectively coordinated.

Your Committee has amended the bill to provide that the marine affairs coordinator serve without pay, but be reimbursed for reasonable expenses for travel and per diem.

Your Committee also made other technical corrections.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2183-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2183-82, H.D. 1.

Signed by all members of the Committee.

SCRep. 549-82      Finance on H.B. No. 3133-82

The purpose of this bill is to provide for FY 81-82 shortfalls for ambulance services contracts for the City and County of Honolulu, and the counties of Maui, Kauai, and Hawaii.

The shortfalls occurred because of the following reasons:

- 1) there was no competitive bidding because only one private ambulance provider (International Life Support, Inc.) was available to contract for services on Maui and Kauai
- 2) for the first time this fiscal year, the Department of Health allowed administrative overhead and indirect costs for the City and County of Honolulu
- 3) increased costs for personal, vehicle and medical supplies for Hawaii Counties were identified
- 4) overall, there were increased personnel costs due to overtime and sick leave and increased cost in vehicle fuel and maintenance charge.

Passage of this bill will enable the continuation of services for the rest of this fiscal year.

The shortfall for the City and County of Honolulu was reduced by \$199,000 from \$584,396 to \$385,396, by 34%.

The Department of Health recommended the reinstatement of the \$199,000 for the following reasons:

- 1) the total budget amount of \$5,067,380 was negotiated in good faith between the Department of Health and the City and County of Honolulu for the FY 81-82 Oahu ambulance service contract special provision. The shortfall of \$584,396 was part of this budget.
- 2) the Department of Health approved the \$584,396 as administrative overhead (70%) and indirect costs (10.07%) after negotiation of the individual components with the City and County of Honolulu and with the State Department of Budget and Finance verbally confirming that these were allowable costs.
- 3) the City and County of Honolulu represented the \$584,396 as a part of their actual costs of operating the ambulance services for Oahu with a detailed budget presented and is seeking full reimbursement for these services.
- 4) should the City and County of Honolulu provide the emergency ambulance services in the future, they have indicated they would expect full reimbursement of costs.

Your Committee supports this request for the reinstatement of the \$199,000 to the city and county and the bill is accordingly amended.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3133-82, H.D. 1, as amended herein and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3133-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 550-82      Finance on H.B. No. 2799-82

The purpose of this bill is to provide the same one-half percent general excise tax rate for sales at wholesale to Hawaii's aquaculture industry as is currently applicable to the sale at wholesale of raw materials to other qualifying industries.

Your Committee finds that a major factor inhibiting the aquaculture industry is the unequal tax treatment accorded the industry in relation to industrial companies; industries pay only a wholesale general excise tax rate of one-half percent on their raw materials whereas aquaculturists must pay the full four percent retail general tax rate on much of their raw materials.

Testimony before your Committee by the Department of Taxation indicated that the proposed amendment is an extension of the favorable tax treatment given to manufacturers under the General Excise Tax Law on the purchase of components to be incorporated into a finished product, and favors the enactment of this bill.

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

2799-82 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Fukunaga, G. Hagino and Okamura.

SCRep. 551-82 Finance on H.B. No. 2208-82

The purpose of this bill is to permit qualified State employees to appraise land remnants surplus to State highway requirements.

The present law, HRS 171-52(d), requires the appraisal to be made by an independent appraiser. This requirement tends to work to the disadvantage of the State or the purchaser of the remnants. The costs of the appraisal must be added to the purchase price which often leads to an uneconomical price that lead potential purchasers to decline the offer to sell. The State must maintain those remnants it cannot sell and the remnant lands do not get on the tax rolls of the counties.

Your Committee finds that the State has qualified appraisers on its payroll, who could be used to do the work at a cost much less than if independent appraisers are used. The proposal would benefit all parties in the sale and purchase of remnant highway lands. The use of State appraisers instead of independent appraisers applies only to those remnant highway lands existing as of December 31, 1981.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2208-82, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 552-82 Finance on H.B. No. 2264-82

The purpose of this bill is to establish a financial assistance fund for the hemophilia-related medical care and treatment of persons in the State suffering from hemophilia.

The Hemophilia Foundation of Hawaii, which presently provides financial assistance, medical care, and education to persons throughout the State who suffer from this disease, has in past years received grants-in-aid from the Legislature to help alleviate the heavy financial burden imposed on hemophiliacs and their families due to the high costs of treatment of the disease.

Your Committee concurs with the need to establish such a financial assistance fund and agrees that based on the Hemophilia Foundation's proposed budget for the next fiscal year, that the sum of \$120,000 be appropriated for the fund for fiscal year 1982-1983.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2264-82, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Fukunaga, G. Hagino and Okamura.

SCRep. 553-82 Judiciary on H.B. No. 3091-82

The purpose of this bill is to correct and clarify provisions in the election laws of the State of Hawaii so that they will reflect the legislative intent to remove from the register only the names of persons who have failed to vote at all in an election year.

The bill amends Section 11-17, Hawaii Revised Statutes, to clarify that the name of a person registered to vote in the Office of Hawaiian Affairs election is to be removed from the register only if that person did not vote in the primary election, did not vote in the general election, and did not vote in the Office of Hawaiian Affairs election.

This bill is sponsored by the Association of Clerks and Election Officials of Hawaii.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3091-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 554-82      Judiciary on H.B. No. 2097-82

The purpose of this bill is to amend Section 515-10, Hawaii Revised Statutes, by deleting the award of attorney's fees to the respondent in the event of a dismissal of a complaint filed under the Fair Housing Law.

As the Fair Housing Law now reads, the person who files an unfair housing practice complaint may become liable for up to \$100 of the respondent's attorney's fees should the complaint be dismissed due to lack of evidence of any discriminatory practice. This clause serves to deter aggrieved individuals from filing complaints. In addition, the state's Fair Housing Law is the only law administered by the Department of Regulatory Agencies by which an aggrieved person must pay such fees.

Extensive testimony in support of the bill was received.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2097-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 555-82      Judiciary on H.B. No. 3124-82

The purpose of this bill is to restrict the authority of the administrator of a psychiatric facility to grant leaves of absence to persons committed to the facility, by order of court, after having been a defendant for a felonious offense. Any authorized absences may be granted only after prior court approval is obtained.

Your Committee believes that public safety necessitates closer supervision of patients who are committed to psychiatric facilities by the court following charges of a criminal nature. There is a need to protect the public by assuring that the release of the patient does not present a danger to others.

In order to provide greater protection to the public, this bill has been amended to include patients who are admitted or committed after being charged with a misdemeanor, pursuant to Chapter 707, Hawaii Revised Statutes, Offenses Against The Person, in addition to those charged with a felony under the same chapter. The bill has been further amended to make an exception to the court order requirement when the absence is supervised. Supervised absence means the presence of someone from the facility with the patient during the leave of absence. Your Committee finds that there is no need for court approval when the absence is supervised since the public safety interest is met.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3124-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3124-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 556-82      Judiciary on H.B. No. 3092-82

The purpose of this bill is to correct and clarify provisions in Hawaii's election laws pertaining to:

- 1)      petition requirements for the formation of new parties (Section 11-62, H.R.S.);
- 2)      petition requirements of presidential and vice presidential candidates for inclusion on the general election ballot (Section 11-113, H.R.S.);
- 3)      deadlines for the insertion of names of replacement candidates on ballots (Section 11-118); and
- 4)      petition requirements of indigent candidates seeking waivers of filing fees (Section 12-6).

This bill amends Section 11-62 of the Hawaii Revised Statutes to require that the number of registered voter signatures submitted by a group desiring to form a new political

party in the State shall be not less than one per cent of the number of registered voters in the State in the preceding general election rather than one per cent of the registered voters at the time of filing. The number of registered voters at the time of filing varies with the date of filing; this indeed makes counting and verification of signatures difficult.

Section 11-113, Hawaii Revised Statutes, is amended by this bill to change the number of registered voter signatures required to place the names of presidential and vice presidential candidates on the ballot from not less than one per cent of votes cast at the last general election to not less than one per cent of the votes cast in the State for the Office of President of the United States in the preceding presidential election. At present, the total number of votes cast in an election includes ballots which are totally blank. Excluding these blank ballots in counting the number of votes cast would entail a costly and time-consuming process of ballot set coding. Limiting the signature requirement to not less than one per cent of votes cast for the Office of President of the United States provides a more workable and relevant prerequisite for presidential ballot access.

Section 11-118, Hawaii Revised Statutes, is amended by this bill to change the deadlines, by which a party may fill vacancies and insert names of replacement candidates on the ballot, to the fiftieth day prior to a primary or special primary election, and to the fortieth day prior to a special, general, or special general election. The current deadline of thirty days prior to an election does not allow sufficient time for ballot changes and simultaneous adherence to statutory deadlines for ballot distribution. According to the schedule, ballots must be printed (and delivered to the State Capitol from printers on the continental United States) and packed, and forwarding to county offices must have commenced by thirty days prior to an election. The fifty-day deadline would allow ten days after the deadline for the filing of nomination papers for the primary within which a replacement candidate slot can be filled by the party. The forty-day deadline would allow five days after the primary election during which a replacement candidate slot in the general election can be filled by the party.

Section 12-6, Hawaii Revised Statutes, is amended by this bill to require that the number of registered voter signatures needed for a candidate wishing to declare indigent status shall be not less than one half of one per cent of the number of registered voters of the State in the preceding general election rather than at least one half of one per cent of the number of registered voters at the time of filing. As in Section 11-62, the number of registered voters at the time of filing varies with the date of filing. This causes inequities in the number of signatures required of candidates filing for indigent status and makes the requirement unpredictable.

The Association of Clerks and Election Officers of Hawaii submitted testimony in support of the bill.

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

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3092-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3092-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 557-82            Judiciary on H.B. No. 2598-82

The purpose of this bill is to amend Section 708-833.5, Hawaii Revised Statutes, to increase the fine paid by a person convicted of shoplifting, to be double the amount of the fine imposed for the offense, if the person was previously convicted of shoplifting.

Your Committee is aware that the incidence of shoplifting has increased and continues to rise. The monetary loss sustained by the retail merchants is estimated at between 35 and 40 billion dollars nationwide. These losses are ultimately passed on to the consumer in the form of higher cost of merchandise.

Your Committee received testimony that much of the growing rate of shoplifting can be attributed to persons who repeatedly shoplift. It is believed that the additional penalty proposed in this bill for the repeat offender will serve as a deterrence to the professional shoplifter who makes shoplifting a career.

Your Committee has amended the bill to clarify the language and to conform it to other

sections of the penal code.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2598-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2598-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 558-82 Finance on H.B. No. 2426-82

The purpose of this bill is to provide an appropriation for the installation of an automated, online circulation system for the public libraries.

The need for an automated circulation system has been growing over the years with an increasingly serious problem of lost books, both from those borrowed but unreturned, and those stolen outright from the stacks. The loss in borrowed books alone amounted to \$1,343,429 in 1980-1981. In addition, the large volume of overdue bills requiring manual notification has resulted in a six-month backlog, as well as taking needed personnel from other areas.

The acquisition of an automated circulation system would eliminate these problems by automatically determining overdues and notifying borrowers; curb a major portion of excessive book losses; utilize the already automated catalog in an intralibrary system; release existing personnel for use in other areas; and increase circulation an estimated 14%.

The system would be implemented in 3 phases, East Oahu, West Oahu, and Neighbor Island libraries. Phase 1, Year 1, East Oahu, would begin with the Kaneohe, Kailua, and Waimanalo Libraries.

Your Committee has amended this bill to correct technical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2426-82, H.D. 1 as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2426-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 559-82 Finance on H.B. No. 2930-82

The purpose of this bill is to amend the Workers' Compensation Law to entitle a permanently totally disabled worker's dependents to the same benefits as dependents would be entitled to should the worker die because of an industrial injury.

Under existing law if a worker dies because of an industrial injury, the employer must pay at least 312 weeks of benefits to his dependents.

Under existing law a permanently totally disabled worker is entitled to receive permanent total disability benefits until his death. If the worker should die from a cause not related to the industrial injury prior to exhausting 312 weeks of benefits, the worker's dependents are not entitled to any benefits.

This bill would require that a minimum of 312 weeks of benefits be paid in permanent total disability cases where the employee died of unrelated causes. However, this bill provides that the employer would be credited for all benefit payments made before death.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2930-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 560-82 Judiciary on H.B. No. 2357-82

The purpose of this bill is to make the offense of bail jumping in the the first degree the same class of felony as the highest offense under which the defendant was charged



when he jumped bail. The bill further eliminates the time limitations on prosecutions when the accused has jumped bail.

The purpose of the bill is to deal with the situation where a person charged with a class A or B felony jumps bail and hides until such time as the evidence against him has become stale or unavailable or the statute on limitations has run out, then returns, knowing that he will only be subject to bail jumping which is presently a class C felony.

Although your Committee believes that a person should not be able to avoid a greater penalty by jumping bail, your Committee is mindful of the harshness of imposing a greater penalty without an adjudication of guilt on the original charges.

Accordingly, your Committee has amended the bill to delete the provision for increased penalties.

The tolling of the statute of limitation when a person jumps bail will insure that he can be charged with the offense anytime he returns to this jurisdiction.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2357-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2357-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 561-82          Judiciary on H.B. No. 2751-82

The purpose of this bill is to amend Section 803-5, Hawaii Revised Statutes, to clarify the circumstances under which a police officer can arrest a person without a warrant.

The bill would delete the words "as may be found under such circumstances to justify" in reference to persons who may be arrested without a warrant. Under present law, the term "found under such circumstances to justify probable cause" is ambiguous. According to testimony presented, no other jurisdiction requires anything other than probable cause for a warrantless arrest by a police officer.

The language of the present statute has resulted in one court interpreting the phrase "found under such circumstances to justify" as requiring the person arrested to be near or at the scene of the crime to justify an arrest without warrant.

Your Committee believes that the intent of Section 803-5 has always been that of authorizing a warrantless arrest even though away from the scene of the crime, provided that a crime has been committed and that the officer has probable cause to believe that the person arrested committed the crime.

The Hawaii Supreme Court has consistently held that arrests may be made without a warrant where there is probable cause to do so. State v. Lloyd, 61 Hawaii 505 (1980); State v. Barnes, 58 Hawaii 333 (1977).

The statute as amended will continue to require probable cause by the arresting officer, before any warrantless arrest can be made.

Thus, the removal of the words "as may be found under circumstances to justify," will not change the substantive requirement that there be probable cause before an arrest can be made.

Your Committee also recognizes that Section 803-4, Hawaii Revised Statutes permits warrantless arrests on suspicion when a person is found hiding or trying to escape from the area where a crime has been committed.

Your Committee notes that the authority to arrest without a warrant only applies to arrest in public places and not within a person's home.

Your Committee has made a technical, non-substantive amendment to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2751-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2751-82, H.D. 1, and be placed on the calendar for Third

Reading.

Signed by all members of the Committee.

SCRep. 562-82          Finance on H.B. No. 2606-82

The purpose of this bill is to set forth specific procedures on the granting of furloughs to prisoners.

This bill leaves the final authority on whether an inmate should be furloughed, released, or released on condition with the Director of the DSSH. Furloughs, releases or conditional releases prior to the last six months of the minimum term of imprisonment require the recommendations of the Hawaii Paroling Authority. The Director of the DSSH or his agent may grant furloughs, releases, or conditional releases to committed persons during the last six months of their minimum terms of imprisonment without the recommendations of the Hawaii Paroling Authority. This bill also reduces to six months the waiting period required before a subsequent furlough application can be submitted.

Your Committee is in agreement that the prosecuting attorneys and police chiefs of all the counties should be notified of a pending early furlough and be afforded the opportunity to express any objections or concerns regarding the application.

Your Committee has amended this bill to delete requirement for notifying the Hawaii Parole Authority of a pending application. Further technical amendments are also made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2606-82, H.D. 1, as amended herein and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2606-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 563-82          Finance on H.B. No. 2765-82

The purpose of this bill is to provide the department of education statutory authority to assess and collect special fees and charges from pupils for co-curricular activities, and to deposit such fees and charges into insured checking or savings account.

Under present law, the department may only assess fees and charges against students who negligently break, damage, lose, or destroy equipment, books, and supplies. However, the department currently lacks the statutory authority to assess special fees and charges from students for co-curricular activities such as student councils, other student organizations, and class activities. This bill provides that appropriate statutory authority.

Your Committee finds that if this bill is not adopted, the department of education will experience the following problems:

1. State offices and schools will incur additional workload due to the changes in procedures of processing documents. The major changes will be to schools requiring the preparation of operational expenditure plans and being subjected to the quarterly allotment plan for the various student activities program.
2. The department anticipates minimum first year costs of approximately \$67,000 due to the additional workload that will be incurred by the Office of Business Services.
3. Schools may encounter problems with vendors who will not accept State purchase orders due to the small amount of some purchases and the length of time before they receive payment.
4. Elementary schools will encounter problems in paying for bus transportation and excursions. Also, refunds will have to be made to students unable to attend an excursion.
5. School organizations' requirements for immediate cash purchase of goods or services may not be accommodated.

6. Office of Business Services anticipates problems in processing vendor payments due to stringent DAGS policies and procedures relative to purchase of goods and services.

Your Committee has amended this bill to clarify rule making procedures.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2765-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. 2765-82, H.D. 1.

Signed by all members of the Committee.

SCRep. 564-82      Finance on H.B. No. 2381-82

The purpose of this bill is to establish a voluntary job sharing pilot project in the public library system.

Your Committee finds that job sharing, which would allow two half-time positions in place of one full-time position, is an innovation which will increase the available employment options so that people may have the opportunity to be employed on the basis of their financial and other needs, without, perhaps, the necessity of being employed on a full-time basis.

Job sharing in the Department of Education has resulted in improved productivity and quality of work, employee job satisfaction, and cost savings. The merits of job sharing have been cited in reports by the Legislative Auditor, Board of Education, and the Department of Personnel Services.

Your Committee further finds that the Department of Education pilot project has been effective in achieving the objectives of the job sharing program therefore a job sharing pilot project should be established for the librarians within the public library system.

Your Committee has amended this bill to make technical changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2381-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2381-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 565-82      Finance on H.B. No. 2511-82

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes creating a special fund through fees assessed to licenses regulated under HRS 26H-4 to be used by the Department of Regulatory Agencies for compliance resolution.

A study done by the Legislative Auditor relating to the handling of consumer complaints was critical of the regulated industries programs. Your Committee believes that at least part of the problem that the Department of Regulatory Agencies faces is the lack of staffing to adequately process all consumer complaints satisfactorily.

This bill would establish funding for the hiring of the necessary staff to process complaints through the periodic assessment of fees from licenses.

Your Committee has amended this bill to clarify the license fee procedure, i.e. to whom applicable, rules to be adopted, and setting the fee at \$10. The use of special fund surpluses is also clarified.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2511-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2511-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 566-82      Finance on H.B. No. 2461-82

The purpose of this bill is to create an interagency program of employment preparation and planning services for youth and adults of the State. This would be achieved by

establishing a state interagency employment preparation and planning council which would coordinate various programs of the Department of Education, Department of Labor and Industrial Relations, Department of Social Services and Housing, and other agencies. The state interagency council shall coordinate the development and implementation of school-to-work transition services centers.

Presently many agencies offer many different programs which deal with employment preparation and planning. Establishment of the interagency program would allow for these programs, staffs and facilities to be coordinated. Two successful school-to-work transition centers exist at Waiialua High School and Kaimuki High School, known as Career Resource Centers (CRC).

Your Committee has amended this bill to provide for an appropriation of \$140,000 and to make other technical changes and corrections.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2461-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2461-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 567-82      Consumer Protection and Commerce on H.B. No. 1230

The purpose of this bill is to limit the liability of insurers for claims made pursuant to accidents involving uninsured motorists.

Present law is silent as to the maximum liability of an insurer for any one occurrence per claimant and therefore allows the terms of the insurance contract to control. This bill would clearly define the limits of recoverability of one claimant for injuries received in any one accident involving an uninsured motorist to the amount set forth in Section 287-7, Hawaii Revised Statutes, or such higher limit as may be provided in the policy.

Present law also limits the uninsured motorist coverage required to be offered to a policyholder to \$25,000.00 for each automobile insured.

Your Committee heard testimony that several Hawaii Supreme Court decisions have held that under certain circumstances, an injured claimant is allowed to recover in excess of \$25,000.00 from an insured's policy through the "stacking" of the uninsured motorist coverage on more than one automobile owned by the insured, notwithstanding the fact that only one vehicle was involved in the accident. Your Committee heard further testimony from the insurance industry stating that they have not allowed for stacking of uninsured motorist coverage in determining their premiums and that the result is therefore an unfair burden on insurers.

Your Committee finds that in order to provide for equity among claimants, insureds and insurers, amendments to the present uninsured motorist plan are warranted. Your Committee also finds that the problem addressed by the Supreme Court in its decisions permitting stacking in order to provide injured parties adequate compensation where premiums have been paid is significant. Your Committee has therefore amended the bill to raise the minimum amount of uninsured motorist coverage required to be offered by insurers to \$100,000. Your Committee feels that the no-fault insurance plan, as originally conceived did not contemplate the present incidence of non-compliance with the mandatory coverage provision. This has resulted in the original minimum amount of uninsured motorist coverage being set at an unrealistically low figure for the occasional case where the Supreme Court has found stacking necessary.

Your Committee has also amended the bill to require insurers to offer underinsured motorist coverage in the minimum amount of \$100,000. Such coverage can be declined by the policyholder in writing. Optional underinsured motorist coverage in the amounts of \$150,000 and \$200,000 also must be offered. Your Committee feels that this coverage can be offered by insurers at minimal cost to policyholders and will further the intent of the bill.

Your Committee has also amended the bill by specifically providing that the uninsured motorist coverage applies to a loss caused by a hit-and-run vehicle.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1230, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1230, H.D. 1, and be placed on the

calendar for Third Reading.

Signed by all members of the Committee except Representative Liu.

SCRep. 568-82      Judiciary on H.B. No. 2685-82

The purpose of this bill is to transfer administrative responsibility for the Juvenile Justice Interagency Board (JJIB) from the State Law Enforcement Planning Agency (SLEPA) to the Department of the Attorney General, and to increase the number of board members from seven to nine.

Present law places the JJIB within the SLEPA for administrative purposes; however, SLEPA is scheduled to cease operations on March 31, 1983. This bill provides for a timely and much-needed transfer of administrative responsibility from SLEPA to the Department of the Attorney General.

The JJIB was originally established by legislative action in 1980 to provide for optimum coordination and cooperation within the juvenile justice system of the State. Agency activities to date include the institution of a statewide network to identify and resolve interagency issues and problems on county levels and the initiation of a juvenile justice information system study.

Your Committee feels that the performance of the JJIB has been commendable and warrants its continued existence and expansion in accordance with legislative guidelines set forth at the time of its inception.

Currently, the Board is comprised of seven members. Your Committee finds that an increase in membership is needed to accommodate the agency's need for greater manpower and input by adding two new members, as proposed by the bill, and by creating a position for the Director of the Office of Children and Youth as an ex officio member. It is further felt by your Committee that the purposes of the JJIB will best be served by allowing the Governor to retain full authority in the appointment of Board members, rather than requiring that board membership include a resident from each county in the State.

In accordance with its findings, your Committee has amended the bill to provide that ten (rather than nine) members serve on the Juvenile Justice Interagency Board, including the Director of the Office of Children and Youth as an ex officio member. Your Committee has further amended the bill to delete the requirement that board membership include a resident member from each county.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2685-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2685-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 569-82      Finance on H.B. No. 2838-82

The purpose of this bill is 1) to extend the state mortgage loan guarantee program for low- and moderate-income households to "shell" homes and 2) to appropriate \$500,000 to be paid into the state mortgage guarantee fund.

This bill would increase the state guarantee from twenty-five to one hundred per cent of the loan amount. This bill would further extend the program to "shell" homes. The term "shell housing program" means development of housing which is habitable but unfinished and can be completed or expanded.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2838-82, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 570-82      Finance on H.B. No. 2571-82

The purpose of this bill is to allow the Department of Regulatory Agencies to hire

attorneys on a full-time basis.

Under present law, the Department is assigned attorneys for the purposes of legal advice and the prosecution of certain consumer complaints, from the Office of the Attorney General.

Your Committee heard testimony that the consumer complaint workload has increased to the point where the number of deputy attorney generals assigned to the Department is not sufficient to adequately prosecute the complaints.

The bill provides that the attorneys hired pursuant thereto be utilized for the purpose of processing consumer complaints and that they need not be deputy attorney generals. Your Committee agrees that the Department needs this flexibility necessary to handle consumer complaints. Your Committee has amended the last paragraph of HRS 103-3 to clarify this proposal that the attorney need not be a deputy attorney general.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2571-82, H.D. 1 as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2571-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 571-82      Consumer Protection and Commerce and Housing on H.B. No. 2888-82

The purpose of this bill is intended to protect purchasers of time share interests by requiring that their funds be placed in escrow until closing. It is also intended to insure that before the closing of escrow occurs, adequate arrangements are made to pay any existing mortgages and any future mortgages which may encumber the time share units.

Section 1 provides that the developer must establish an escrow account with a bank, savings and loan association, trust company, or licensed escrow depository here in Hawaii. All funds and negotiable instruments received from buyers must be deposited in the escrow account until closing. "Negotiable instruments" is defined in section 3 of the bill to mean any checks, promissory notes or other documents which are negotiable instruments within the meaning of Article III of the Uniform Commercial Code.

There is a limited exception to the general rule which permits a developer or sales agent to hold the buyer's downpayment check until after the expiration of the 5-day cancellation period provided in Section 514A-8, or any cancellation period in favor of the buyer contained in the sales contract. This is based on your Committees' understanding that escrow depositories are not likely to agree to establish escrow accounts for buyers who are still in the rescission period because the administrative burden is substantial and all parties go unpaid. To be sure that the developer or sales agent do not misappropriate the buyers funds, however, under this exception the developer or sales agent may only retain checks or other negotiable instruments which are specifically made payable to the escrow agent or to the trustee of the trust arrangement established under this bill. The developer or sales agent may also retain any non-negotiable instrument such as a retail installment sales contract or any instrument which can be negotiated but which a successor cannot enforce against the purchaser as a holder in due course. A "holder in due course" is someone who would be able to enforce, for example, a promissory note against a buyer without being subject to any defenses the buyer may have against the developer. By restricting this exception to instruments in which successors are not "holders in due course", any misuse of the note will be borne by a successor holder, not by the purchasers.

This section also provides that if the law of the place where the sale of the time share interest took place requires it, an escrow account may be established in that jurisdiction rather than in Hawaii. In such case, the director will have the authority to review and approve such escrow account.

Section 2 of the Act establishes the conditions under which the purchaser's funds may be released from escrow. It permits the escrow agent to disburse the buyers' funds when a contract is cancelled or in the event of a default. It also provides conditions under which buyers' funds may be disbursed upon closing. Paragraphs (a)(4) and (5) establish that upon closing, the funds will be disbursed according to the requirements of the financial arrangements made by the developer to protect the buyers from foreclosure



of mortgages existing at the time of the closing and later mortgages made by the developer. The following are examples of the problems your Committees perceived and intended this bill to prevent.

Suppose the buyer pays \$10,000 for the right to use a condominium apartment for the next 40 years. Suppose that the condominium apartment already has a mortgage loan on it. If the developer does not use the buyer's money to pay off the mortgage, the lender may foreclose. If that happens, the apartment will be sold and the buyer will lose the right to use the apartment plus he won't get his \$10,000 back. This is an example of how an existing mortgage can be foreclosed so as to cut out the buyer's right to use.

Your Committees understand that up to 3,000 buyers in the Paradise Palms time share plan may lose their money because inadequate arrangements were made to prevent the type of foreclosure described in the preceding paragraph. Your Committees heard testimony that in the Paradise Palms case, the developer had purchased several apartments for the time share plan on an agreement of sale. When the agreements of sale were not paid off, the sellers foreclosed, leaving the time share purchasers without any place to stay.

Another circumstance which your Committees considered is this one. Suppose again that the developer sells the buyer the right to use the condominium apartment for the next 40 years. The buyer pays his \$10,000. Fifteen years later, the developer takes out a mortgage. He fails to pay it and the lender forecloses. If the time share plan is a time share use plan, the buyer simply has the right to use the apartment. Accordingly, under the law, the lender can foreclose the mortgage and the buyer will lose his right to use the property. Generally this occurs only in time share use plans.

Paragraph (a)(6) parallels Section 514A-67 of the Horizontal Property Act which permits the disbursement of buyers funds to pay the costs of construction. A developer will not be permitted to use buyer's funds for construction until he files a copy of the executed construction contract and a copy of the executed performance and labor and material payment bonds insuring that all amount due under the construction contract, including change orders up to 10 percent, and all other costs of construction will be paid.

Subsection (b) of section 2 of the bill provides that notwithstanding the provisions of subsection (a), buyers' funds may not be released from escrow until the purchaser's right of cancellation has expired. This section then adds a very useful provision which establishes that a buyer's cancellation will be effective if it is delivered to the developer within the 5-day cancellation period or if it is received by the developer after that time, but is postmarked on a day falling within the 5-day cancellation period.

Section 3 of the bill defines a number of terms which are necessary to clarify and establish a manner in which the bill works.

Section 4 of the bill contains the requirement that adequate arrangements be made to pay any existing or future mortgages or other blanket liens before the buyers funds can be given to the developer. There are undoubtedly a number of ways in which the buyer can be protected from foreclosure of mortgages. This bill permits four, and gives the Director the discretion to accept alternative arrangements, particularly when the Director is dealing with a time share plan which is operating in more than one state and has several sets of statutory or regulatory requirements to comply with. Your Committees understand that California, Florida, and presumably other states which are regulating time sharing are also providing their departments of real estate the discretion to permit alternative buyer protections to be established.

One approach permitted by section 4 of the bill is the "non-disturbance agreement" approach. Where there is an existing mortgage, the lender already has rights to foreclose the property. Your Committees did not think it would not be wise to pass a law changing those existing rights, even if it could be done constitutionally. A non-disturbance agreement does not change the lender's right without its consent.

A non-disturbance agreement works as follows: The developer approaches the lender and asks him to sign a "non-disturbance agreement". That is a document in which the lender agrees that if the mortgage is foreclosed, the rights of the buyers of time share interest will not be disturbed. In other words, the lender can foreclose, but the buyer will continue to have the right to use the property just as though the lender had not foreclosed. This means that anyone who purchases the property at a foreclosure sale will take it subject to all the rights of the time share owners. The lender may,



in return, require that the contracts with the time share buyers provide that if the lender forecloses, the buyer payments will be given to the lender in place of the developer.

In some cases, a lender may not be willing to sign a non-disturbance agreement. If that happens, this proposed bill permits the developer to make other arrangements to insure that payment of the mortgage. The surety bond route requires that the developer post a bond in an amount equal to 110 percent of the money owned on the mortgage. As an alternative, the developer may post a letter of credit providing for payment of the amount due under the blanket lien. Your Committees understand that surety bonds and letters of credit may be difficult for developers to obtain, so it is unlikely that developers will use these with great regularity. However, there may be some developers who are able to use these alternatives. In that case, the director should be empowered to accept such assurances of payment as satisfactory protection from existing mortgages.

If the developer is unable to get the lender to sign a non-disturbance agreement, and the developers is also unable to post a bond or letter of credit, there is yet another way in which an existing lien can be dealt with so as to adequately protect the buyer's interest. This involves establishing a trust arrangement in which the time share units are transferred to a trustee.

Your Committees heard testimony that most buyers do not pay cash for their time share interests. Rather, they pay the downpayment in cash and sign either a note and mortgage or an agreement of sale or an installment sales contract obligating them to pay the balance due. When taken in the aggregate, these notes, agreements of sale, and contracts can provide a substantial source of income to pay down existing mortgages. The trust approach is based on this fact.

This bill provides that the developer may establish a trust and deposit in the trust notes, agreements of sale or contracts which obligate the buyers to pay the balance of their purchase price. All payments made to the purchasers would be paid to the trustee. The trustee would then use the money paid by the purchasers to pay the regular monthly payment due under the mortgage and to establish a sinking fund to pay off the balance of the mortgage when it becomes due.

To make this approach work, it is necessary that the developer put in the trust notes, agreements of sale, or contracts which will produce enough money to pay the total amount due under the mortgage. In that regard, section 9 of the bill restricts the developer from closing the sale of any time share interest until enough buyers have signed notes, agreements of sale, or contracts sufficient to total the amount necessary to pay the mortgage.

Because payment of the blanket liens under the trust approach depends on the buyers paying their monthly payments, your Committees were concerned that such an arrangement might be construed as a risk capital security under Chapter 485. To avoid this, your Committees added subsection (c).

Section 6 of the bill establishes the requirements for the trust instrument. Among other things, it requires that the time share owners association expressly be made a third-party beneficiary of the trust. This way the association may act on behalf of the owners in enforcing the provisions of the trust.

Paragraph (b)(6) establishes detailed requirements which must be met if the trust approach is to be used to pay existing mortgages or other blanket liens. It requires the developer to deposit assets which equal or exceed 110 percent of the money owed on the mortgages or other blanket liens. Also, it requires the trustee to retain in the trust a reserve fund in an amount at all times sufficient to pay three months successive monthly installments on the mortgages, and if installments are due less frequently than monthly, then enough to make the next six months installment. It also requires that the trustee establish a sinking fund to pay any balloon payments or any similar amounts due under mortgage or other blanket lien. Also, it requires that the trustee pay all real property taxes, assessments, and insurance premiums. It permits the trustee to disburse funds from the trust and establishes that they may only be disbursed first to the payment of real property taxes and lease rent, second to current payment due on the blanket liens and any sinking fund established for them, next to the trustee, and finally to the developer or its sales agents.

Section 7 of the Act gives the developer the option to switch from a trust approach to a non-disturbance agreement or surety bond or letter of credit approach at future dates.

Section 8 deals with situations where a portion of a hotel is used in a time share plan.

In those circumstances, the developer of the time share plan may use part of the hotel for the plan, and the balance of the hotel may continue to be operated as a hotel. This section is intended to give the director the flexibility to establish protections for the buyers in place of the protections outlined in Section 4, which may be impractical for a combination hotel/time share project.

Section 9, establishing pre-sale requirements, is intended to assure two things: First, that not sales are closed until enough sales have been made to assure that a viable time share program will be established. Usually, the developer will have to sell a minimum number of apartments before the program can be run at reasonable expenses.

Second, the pre-sale requirement is also appropriate when the trust approach is taken to protect buyers from blanket liens.

Section 10 authorizes the Director of Regulatory Agencies to approve alternative arrangements for purchaser protection in place of the requirements of section 4. This is because many time share plans operate in more than one state and sometimes have properties in several countries. This makes it impossible, or at least impractical, for your Committees to address every conceivable problem which may crop up in multi-state or multi-national time share developments. Accordingly, the director should be given flexibility to accept alternative arrangements which adequately protect the buyers under the circumstances.

Section 11 of the bill defines the scope of Chapter 514E and makes it clear that it applies to all time share plans in the State and to all in-state sales of time share interests for out-of-state plans.

Your Committees on Consumer Protection and Commerce and Housing are in accord with the intent and purpose of H.B. No. 2888-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2888-82, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Aki, Baker, Ige, Kawakami, Nakamura, Ikeda, Medeiros and Wong.

SCRep. 572-82      Judiciary on H.B. No. 2377-82

The purpose of this bill is to protect agricultural operations from lawsuits charging that the operation is a nuisance. The bill limits the circumstances under which an agricultural operation may be considered a nuisance. The bill provides that an agricultural operation may not be deemed to be a nuisance if the operation has been in existence for one year or more prior to the lawsuit and where the conditions constituting the basis for the nuisance complaint have existed substantially unchanged since the agricultural operation began or prior to any changed conditions in or around the locality of such agricultural operations.

Your Committee finds that such nuisance lawsuits are expensive and time-consuming to defend and are a great source of frustration and aggravation to the farmer.

The continual urbanization of agricultural land has resulted in an increasing number of nuisance complaints being filed against existing farming operation.

To date, some thirty-three states have enacted right to farm laws designed to protect the farmers and six more states are currently attempting to pass right to farm laws.

The bill has been amended to provide:

- 1) A more comprehensive definition of farming operation to include planting, cultivating, harvesting, and processing of crops as well as farming of fish, shrimp, and other marine farming activities,
- 2) addition of a definition of nuisance as applied to this chapter,
- 3) clarify the types of farming activity and circumstances under which a farming activity will be exempted from general nuisance suits.

The Chairman of the Board of Agriculture, Hawaii Farm Bureau Federation, and Hawaiian Sugar Planters' Association have testified before your Committee supporting the intent of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2377-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2377-82, H.D. 1.

Signed by all members of the Committee.

SCRep. 573-82 Consumer Protection and Commerce on H.B. No. 3152-82

The purpose of this bill is to provide for the incorporation of consumer cooperative associations in the State of Hawaii.

Your Committee received testimony in favor of the concept of cooperatives and passage of this bill.

Your Committee amended this bill for the purposes of clarification, equity, and technical uniformity by:

1. Adding definitions of "directors", "share or membership capital", and "surplus funds";
2. Providing that no class of stock except common stock may grant voting and membership privileges in a stock association;
3. Providing that no voting agreement or other device to evade the one member, one vote rule shall be enforceable;
4. Providing that interest-dividend interest on shares or membership capital shall not exceed the current annual Consumer Price Index percentage increase, or eight per cent, whichever is greater;
5. Deleting from the exemption from attachment, execution, or garnishment, the minimum membership holdings of any member of an association;
6. Providing that where the annual gross business of an association amounts to less than \$1,000,000, the audit may be performed by an auditing committee of three individuals who are not directors, officers, or employees of the association, plus the treasurer of the association;
7. Providing that associations may enter into contracts, agreements, or arrangements with other associations or other entities for the cooperative and economical carrying on of its business;
8. Deleting the exemption from the Uniform Securities Act, Chapter 485, Hawaii Revised Statutes;
9. Providing that if there is any conflict between this Act and any other law, this Act shall control; and
10. Making numerous technical and style changes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3152-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3152-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker, Kawakami, Taniguchi, Ikeda and Liu.

SCRep, 574-82 Housing and Consumer Protection and Commerce on H.B. No. 2733-82

The purpose of this bill is to provide for the fair re-negotiation of lease rents between lessors and cooperative housing corporations.

Your Committee on Housing conducted an interim review of a proposal to extend the lease rent re-negotiation provisions of chapter 519, Hawaii Revised Statutes, to condominiums. Since condominium ownership is so fragmented, however, action on the proposal was deferred pending further study. However, your joint Committees find that a coopera-

tive housing corporation represents a single party in lease rent re-negotiations with a lessor and believe that the provisions of chapter 519 can be extended to housing cooperatives. Recent lease rent increases faced by cooperatives have brought undue hardship on many residents. Your Committees believe that this bill will provide both lessee and lessor equitable treatment in lease rent reopenings.

Upon further review, your Committees have amended the definition of "owner's basis" to overcome the problems raised in Midkiff vs. Tom (471 F.Supp. 871).

Your Committees on Housing and Consumer Protection and Commerce concur with the intent and purpose of H.B. No. 2733-82, as amended herein, and recommend that it pass Second Reading in the new form attached hereto as H.B. No. 2733-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Segawa.

SCRep. 575-82          Public Assistance and Human Services and Judiciary on H.B.  
No. 2242-82

The purpose of the bill is to update Chapter 576, Hawaii Revised Statutes, to conform the chapter to the 1968 Revision of the Uniform Reciprocal Enforcement of Support Act.

Hawaii's Reciprocal Enforcement of Support Act was first passed in 1951 by the Territorial Legislature as Act 216, Regular Session, 1951. The chapter was amended extensively in 1953 and again in 1955, but no major changes have been made since. In 1968, the model uniform reciprocal enforcement of support act was revised, but Hawaii did not adopt the changes. This bill will remedy the situation and conform Hawaii's law to the national reciprocal model, which has been adopted by some forty jurisdictions.

Some of the major provisions of the bill include inter alia:

- 1) Changes in the definition section of the chapter to provide that the commonwealth of Puerto Rico and any foreign jurisdiction fall within the definition of state and amends the term "duty of support" to include a duty to pay arrearages of support payments not paid. These changes will clarify the law to make it clear that the State of Hawaii can collect arrearages as well as current payments.
- 2) The responding court's jurisdiction in URESA matters will be limited to the issue of support obligations, and the court may not refuse to accept the filed complaint on the basis that it should be consolidated with some other pending action. This will provide the parties an opportunity to litigate the issue of support without dealing with the related issues such as custody, visitation, adoptions, or divorce. The sole issue that will be determined is that of obligation and enforcement of a duty to support. The court is also empowered to issue support orders pendete lite even where there is a pending action for divorce.
- 3) A new section will be added to the law whereby the court will be empowered to deal with the issue of paternity, if, the defendant in a URESA action raises non-paternity as defense, as a part of the issue whether there is a duty of support by the defendant.
- 4) The bill will also authorize the clerk of the court to reduce a foreign decree and register it as a local decree, making it an enforceable court order. This change will streamline the often cumbersome process of enforcing a support decree from another jurisdiction.

The above changes will assure that URESA law is updated and conform to that of the some forty other jurisdictions that have adopted the 1968 revisions, and thereby insure uniform and effective enforcement of the state's efforts to enforce parental duty to support a child.

The Department of Social Services and Housing, the Department of the Corporation Counsel of the City and County of Honolulu, and the Family Court all testified in favor of the changes proposed in the bill.

Your Committees have added language which was inadvertently omitted when the bill was drafted. On page 9, line 18 after the word "registration", the following has been added: "in which to petition the court to vacate the registration".

Your Committees have made several non-substantive, technical changes to the bill.

Your Committees on Public Assistance and Human Services and Judiciary are in accord with the intent and purpose of H.B. No. 2242-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2242-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Segawa.

SCRep. 576-82          Housing and Public Assistance and Human Services on H.B. No. 3119-82 (Majority)

The purpose of this bill is to add a new section to Chapter 46, Hawaii Revised Statutes, to allow group living in any real property zoned for residential use provided that there are no more than eight unrelated persons and two managers and that the facility meets the Department of Social Services and Housing's licensing requirements.

Presently, local county zoning laws prohibit the cohabitation of more than five unrelated adults in a residential facility regardless of the special housing needs of the individuals. The economic and social pressures on elderly, handicapped, and developmentally disabled persons often make it difficult for them to locate and maintain an appropriate living situation without the option of group living. While residents of special residential group homes benefit from increased peer support and companionship, personal safety, and family-like surroundings, it is not economically feasible to operate such homes for a small number of individuals.

Your Committees have amended this bill by deleting all references to totally disabled persons. The intent of this bill is to provide housing for those individuals who are able to live semi-independently and who would benefit from group living situations that provide a safe, affordable, family-like atmosphere to live in.

To further clarify the statutes concerning licensure of group living facilities by DSSH, your Committees have added "under sections 346-121 through 346-124" after "housing" on page 1, line 13.

The definitions for elderly, handicapped, and developmentally disabled have been amended by deleting the contents of subsection (b) of the bill and replacing it with the following:

(b) For the purposes of this section, "elderly person", "handicapped person", and "developmentally disabled person" means an adult who is in need of minimal protective oversight care in the adult's daily living activities. The resident shall be capable of taking appropriate actions for his or her own safety under emergency conditions.

Your Committees have also added a new subsection (c) to read as follows:

(c) The department of social services and housing shall establish rules pursuant to Chapter 91 for the purposes of this section.

Your Committees have made technical, non-substantive amendments to the bill.

Your Committees on Housing and Public Assistance and Human Services are in accord with the intent and purpose of H.B. No. 3119-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3119-82, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 577-82          Finance on H.B. No. 34

The purpose of this bill is to recognize the needs of gifted children and to require the Department of Education to provide educational programs to meet their needs within available resources.

This bill will enable the Department of Education to provide a statewide flexible system of education placement and programs in the public school system to meet the unique educational needs of gifted and talented children.

Your Committee has amended this bill to make technical corrections of a non-substantive nature.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 34, H.D. 1, as amended herein and recommends that it pass Third Reading in the form attached hereto as H.B. No. 34, H.D. 2.

Signed by all members of the Committee.

SCRep. 578-82      Finance on H.B. No. 1978-82

The purpose of this bill is to enable certain concession operations at the airport, requiring substantial capital investment in facilities and fixtures to recapture their investments over a thirty-year maximum period rather than the presently allowed fifteen-year maximum.

Your Committee finds that it would be more reasonable to amortize a large investment over a longer period of time such as thirty years. In addition, a longer amortization period would not only be a more equitable period but would also provide added incentive to concessionaires to improve their facilities and enhance the quality of their services.

Your Committee has amended this bill to meet the needs of the concessionaires and the Department of Transportation.

Your Committee has further amended this bill to make technical corrections.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1978-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1978-82, H.D. 1.

Signed by all members of the Committee.

SCRep. 579-82      Finance on H.B. No. 2984-82

The purpose of this bill is to amend Chapter 321, Hawaii Revised Statutes, by adding a new part which designates the Department of Health as responsible for administering a Maternal and Child Health program to reduce infant and maternal mortality and morbidity, and otherwise promote the health of mothers and children.

Presently, the Department of Health is coordinating and supervising activities relating to maternal and child health including programs aimed at reducing the incidence of preventable diseases and handicapping conditions. This bill establishes a clear statutory base for regarding such activities and adds the responsibility for assessing needs, developing and extending, planning, monitoring, and evaluating health services for mothers and children. It also designates the Department of Health as the responsible agency in Hawaii for the administration of MCH Block Grant funds under Title V of the Social Security Act.

Your Committee has amended this bill to correct minor errors in drafting.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2984-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. 2984-82, H.D. 1.

Signed by all members of the Committee.

SCRep. 580-82      Finance on H.B. No. 2767-82

The purpose of this bill is to statutorily establish a new form of educational resource to provide schools with greater authority, responsibility, and means to plan, budget, administer, and be held accountable for programs which address their unique needs.

The programs of the department of education should be supported and improved,



not only as a whole, but also at the level of the individual school. Your Committee recognizes that schools are different, each with its own special strengths and weaknesses. The Committee further recognizes that in certain matters, the schools are the best arbiters of its priorities and needs.

In this regard, your Committee supports and recommends the system of educational resources provided by this bill which would provide schools with equitably distributed discretionary funding for supplies, textbooks, equipment, and services that directly benefit students and improve the educational programs of the schools. Positions from the Instructional Resource Augmentation Program would also be included in and allotted through the system to be used to meet the unique needs of the elementary schools. Your Committee believes that this innovative system of educational resources would provide schools with the necessary flexibility, resources, and authority to help implement their responsibility for ensuring the quality and completeness of their educational programs.

Your Committee wishes to note that the overall purpose of this resource system is to augment regular instruction and other educational services at the discretion of the schools beyond the level normally attainable through the basic program allotments. More specifically, the system is intended to promote the equitable distribution of educational resources statewide, to strengthen the scope of decision making and increase flexibility in resource allocation at the school level, and to provide a systematic method of conforming resource allocation to the unique needs of individual schools and to changing school priorities.

Your Committee has amended this bill by deleting the appropriation provisions. Your Committee has also amended this bill to make technical changes that are nonsubstantive.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2767-82, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2767-82, H.D. 3.

Signed by all members of the Committee.

SCRep. 581-82      Finance on H.B. No. 2378-82

The purpose of this bill is to reduce the general excise tax on agricultural raw materials from four per cent to one-half of one per cent, which is the general excise tax rate applicable on raw material.

This bill would expand the definition of wholesale sales to include sales to a licensed agricultural producer or agricultural cooperative association of materials or commodities which will be incorporated by the purchaser into saleable produce or a finished or saleable product.

Your Committee has amended this bill by inserting new language to HRS 237-4(3). This amendment clarifies the intent of the bill to specifically include the sale of plant nutrients, pesticides, herbicides and potting medium to certain purchasers as sales at wholesale.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2378-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2378-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 582-82      Finance on H.B. No. 2811-82

The purpose of this bill is to include police officers and firefighters as eligible appointees to the Board of Trustees for the Employees' Retirement System.

Presently there are four categories in the Employees' Retirement System: general employees of the State; teachers; general employees of the counties; and police officers and firefighters. The statute by definition excludes police officers and firefighters from becoming members of the Board of Trustees. The enactment of the bill will give police officers and firefighters an equable opportunity to become members of the Board of Trustees.



Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2811-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 583-82      Consumer Protection and Commerce on H.B. No. 1553

The purpose of this bill is to require an offeror of a take-over bid, as defined by Section 417E-1(7), Hawaii Revised Statutes, to compensate a dissenting stockholder in the event of a merger or consolidation caused by the offeror as a result of the take-over bid.

Dissenting stockholders are not provided a right to compensation in mergers resulting from take-over bids under current law. This bill would fix the compensation payable by an offeror to dissenting stockholders at the difference between the maximum amount paid by the offeror for shares in its bid and the fair market value of the dissenting shares at the time of the merger or consolidation. This bill would also provide dissenting stockholders protection for a period of five years after the initial take-over bid.

Your Committee finds that this bill will prevent situations where stockholders feel compelled to sell their shares because a premium take-over bid price per share is offered and fair market value is likely to be depressed in the event of an eventual take-over and merger. Unfair and inequitable take-overs and mergers may be minimized by this bill.

While in agreement with the intent of the bill, your Committee has amended the bill to provide that the time period for compensation be two years.

Your Committee has also made form and style amendments.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1553, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1553, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 584-82      Finance on H.B. No. 3178-82

The purpose of this bill is to enable the counties to issue tax-exempt bonds as a means of providing below-market-rate mortgage loans both for homeownership and for multi-family rental projects.

This measure would allow the counties to issue either revenue bonds or general obligation bonds to finance below-market-rate mortgage loans. The relatively low indebtedness of the counties provides them with an advantage over the State and would facilitate their issuance of general obligation bonds. By issuing such bonds backed by the full faith of the county, a county could establish a loan program using a 30-year term in tandem with VA and FHA mortgage loan insurance programs. Potentially more families would qualify under such terms than currently qualify under the state Hula Mae program. Your Committee agrees that as wide a range of households as possible should be able to benefit from low-interest mortgage loan programs.

Your Committee has added new subparagraphs (A) and (B) to paragraph (2) of the new HRS section 46-15.2 to add needed language in the event county general obligation or revenue bonds are issued.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3178-82 as amended herein and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3178-82, H.D. 1.

Signed by all members of the Committee.

SCRep. 585-82      Judiciary on H.B. No. 2698-82

The purpose of this bill is to prohibit the use of additional glass tintings to motor vehicle windshield and window glass. At the present time, the use of tinting which

allows less than 70 per cent transmittance of light reduces driving visibility at night and creates hazardous road conditions to other drivers, bicyclists, and pedestrians.

Your Committee heard testimony from the Department of Transportation, the Honolulu Police Department, and a member of the Glass Tinting Association.

The bill has been amended to prohibit motor vehicle windshield and window glass tinting that exceed the current standards for transparency set by the Federal Motor Vehicle Standards. This change will insure that Hawaii's standards will be the same as those enforced in other states. The current Federal standard requires transmittance of light of at least 70 per cent as proposed in the bill.

The bill has been also amended to require periodic checks at safety inspection stations to see that tinted windows meet the current Federal Motor Vehicle Standard for light transparency before a safety sticker is issued.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2698-82, H. D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2698-82, H.D. 2.

Signed by all members of the Committee except Representative Medeiros.

SCRep. 586-82      Consumer Protection and Commerce on H.B. No. 2866-82

The purpose of this bill is to require that a person who manages real estate be licensed as a real estate broker.

Under present law, no licensing is required for a person to act as a managing agent of real property, unless the agent manages a condominium, in which case Chapter 514A, Hawaii Revised Statutes, requires a \$25,000 bond to be posted.

Your Committee finds that while the testimony does not present a conclusive case for requiring managing agents to be licensed real estate brokers, reasons may exist for the regulation of this category of business activity. Your Committee feels, however, that the regulation proposed by this bill amounts to the establishment of another distinct profession or occupation within the meaning of The Hawaii Regulatory Licensing Reform Act and requires the proper evaluation procedure contained therein.

Your Committee has therefore amended the bill to delete reference to licensing property managers, and to include the following amendments to Chapter 467, Hawaii Revised Statutes.

1.      Appropriate provisions to Sections 467-8, 9.5 and 9.6, Hawaii Revised Statutes, have been added to allow the Real Estate Commission to delegate its examination function to a national testing service. Allowing the Commission to rely on a testing service for its examination function will reduce the unnecessary workload, according to testimony received by the Real Estate Commission.

2.      A provision to Section 467-19, Hawaii Revised Statutes, to define the term "educational purpose," in order that the uses to which the real estate education fund can be put, may be determined.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2866-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2866-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Baker, Kawakami, Ikeda, Liu and Medeiros.

SCRep. 587-82      Finance on H.B. No. 2129-82

The purpose of this bill is to make the following amendments to the existing provisions on child abuse under Chapter 350 of the Hawaii Revised Statutes:

- (1)      To add a new definitions section which clearly sets forth acts which constitute child abuse and neglect, and defines the terms "report", "professional", and "department" as the terms are used in Chapter 350.

- (2) To broaden the scope of persons required to report incidents which they know or have reason to believe involve child abuse or neglect or threat of child abuse or neglect.
- (3) To clarify reporting procedures and the manner of reporting, and to increase police involvement in the area of child abuse and neglect.
- (4) To provide for the confidentiality of all reports concerning child abuse and neglect made pursuant to Chapter 350, with any unauthorized disclosure constituting a misdemeanor.
- (5) To provide that the attorney-client privilege shall not be a ground for excluding evidence of a minor's injuries, or the cause thereof, in any judicial proceeding resulting from a report under Chapter 350.
- (6) To provide the penalty of a petty misdemeanor for non-reporting of suspected incidents of child abuse or neglect on the part of persons required to make such reports.

Your Committee supports these changes which improve the child abuse reporting procedure.

Your Committee has amended this bill to include the police department as a receiver of reports. Your Committee has further amended this bill to delete the sections repealing HRS 350-3 and 350-5. Other technical amendments are also made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2129-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2129-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 588-82      Consumer Protection and Commerce and Housing on H.B. No. 2836-82

The purpose of this bill is to provide a vehicle with which to regulate the activities of mortgage servicing agents or entities.

There are no provisions under current law which regulate in any way the activities of mortgage servicing agents. Your Committees note that mortgage servicing is a commonly utilized service among lenders/mortgagees. Mortgagees, who are often out-of-state purchasers of loans made in Hawaii, usually contract with a local servicing agent to collect installment payments from the mortgagors and to allocate each payment for the proper expenses as well as transmitting the principal and interest payment to the mortgagee. Your Committees note that while the mortgagor may make timely installment payments pursuant to the loan agreement, it is the servicing agent who ultimately allocates the installment for the payment of real property taxes, insurance, lease rental, association fees, and other assessments included in the installment payment.

Although there have been no failures or unfair and deceptive conduct on the part of the mortgage servicing agents, recent events indicate a need for some form of regulation and assurance of financial integrity of such agents in order to fully protect the interests of consumers.

Your Committees therefore agree with the purpose of the bill and have amended it to provide the following:

- (1) Certain entities which are regulated by other methods of the State are excepted from regulation as a mortgage servicing agent.
- (2) A bond in the amount of \$100,000 shall be obtained by such agents and shall be deposited with the Department of Regulatory Agencies.
- (3) Agents must maintain an office or place of business open to the public within the State.
- (4) Appropriate trust accounts and records of all transactions must be maintained by agents.

(5) Sanctions are provided for the violation of requirements contained in the bill and specifically for commingling of the trust funds.

Your Committees agree that the bill will provide a frame work for effective regulation and prevention of loss on the part of the mortgagors.

Your Committees on Consumer Protection and Commerce and Housing are in accord with the intent and purpose of H.B. No. 2836-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2836-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 589-82 Finance on H.B. No. 2139-82

The purpose of this bill is to establish a lower reserve balance in the unemployment trust fund by amending the definition of "adequate reserve fund" in section 383-63, Hawaii Revised Statutes.

The amended definition of "adequate reserve fund" will utilize a 5-year average benefit cost rate rather than the highest benefit cost rate during the latest 10-year period ending November 30 that is currently used.

Your Committee finds that the reserve fund can be substantially reduced without creating any real threat to the unemployment insurance system. With a \$112 million surplus in 1981, and a projected \$148 million surplus expected in 1985, the amount held appears entirely too large.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2139-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 590-82 Judiciary on H.B. No. 2339-82

The purpose of this bill is to clarify that the Hawaii Public Employment Relations Board (HPERB), rather than the courts, has primary jurisdiction over prohibited practice complaints filed under Chapter 89, Hawaii Revised Statutes.

A recent Hawaii Court of Appeals decision interprets Section 89-14 and 377-9, Hawaii Revised Statutes, to give HPERB and the circuit courts concurrent jurisdiction over prohibited practice complaints. This bill will make it clear that HPERB has exclusive original jurisdiction over prohibited practice complaints. Appeals from HPERB will continue to be filed in Circuit Court.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2339-82, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 591-82 Housing and Water, Land Use, Development and Hawaiian Affairs on H.B. No. 3112-82

The purpose of this bill is to require the State Land Use Commission to give priority, in petitions to reclassify agricultural lands to urban use, to proposals which will provide affordable housing over proposals for other types of residential development.

While the Land Use Commission has made agreements for the provision of low- and moderate-cost housing with developers in the past, this policy is subject to change at any time. Your Committees believe that since agricultural land is in such short supply in Hawaii, assurances that reclassification of agricultural land is for the public good are required.

Your Committees heard favorable testimony on this measure from the Construction Industry Legislative Organization, the City and County Department of Housing and Community Development, the Consumers' Housing Task Force and many others.

Your Committees recommend that the bill be amended to provide that "affordable housing" means dwelling units for which the purchase price is less than one hundred per cent, rather than one hundred twenty per cent, of the median family income, multiplied by four, using the income-price ratio of four to one.

Your Committees on Housing and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 3112-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3112-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 592-82          Judiciary on H.B. No. 2215-82

The purpose of this bill is to amend Chapter 585, Hawaii Revised Statutes, to streamline the procedures for obtaining and issuing ex parte temporary restraining orders to prevent acts of violence or the recurrence of actual domestic violence.

The bill has been extensively amended in cooperation with the Family Court and the Office of the Prosecutor of the City and County of Honolulu.

As amended, the major provisions of the bill are:

- 1) Any application for relief filed under this chapter shall be given priority by the court.
- 2) The statute clearly specifies that action for relief may be filed by any household member on his own behalf or on behalf of another minor member of the family.
- 3) As under the present statute a temporary restraining order is issued without notice (ex parte) for a period not to exceed 30 days.
- 4) The order must state that there is probable cause to believe that a recent past act of violence has occurred or that a threat of violence may be imminent, and that the temporary restraining order is necessary to prevent violence.
- 5) While the order may be issued for a period of up to 30 days, 15 days from the date of the temporary restraining order, a hearing must be held, after due notice to all parties, on the merits of the motion and a further protective order may be issued for a period not to exceed 90 days.
- 6) The court, after a hearing on the motion, may issue an order to the police department to assist the petitioner in gaining possession of the marital residence.
- 7) A person's right to petition for relief under this chapter is not affected merely because a person leaves the marital residence to avoid violence.
- 8) Knowing violation of the order issued pursuant to the Chapter is a misdemeanor.

Your Committee believes that the proposed bill as amended will add needed changes to provide faster relief in situations involving domestic violence.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2215-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2215-82, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 593-82          Finance on H.B. No. 2090-82

The purpose of this bill is to increase the excise tax credit allowed against the income tax, to make it more equitable, and to bar prisoners from claiming the credit.

Your Committee finds that the excise tax credit is allowed to offset the payment of general excise taxes on the purchase of goods and services. The credit is arranged in such a manner that the lower one's income the higher the credit. This is due to the fact that persons with a low income pay a larger percentage of such income to the general excise tax.

This bill will increase the credits granted between three and four times their present amounts and will provide a credit at the highest income level of \$25,000 and over of \$50. The governor in his veto message of a bill passed in 1981 which was similar to this bill stated that those persons with income such as pensions which are exempt from income taxation would receive overly large tax credits as compared with those persons whose income is taxed under the income tax. This occurs through the use of an adjusted gross income basis to determine the amount of the credit. This basis is composed only of taxable income and does not reflect exempt income such as pensions. Thus, a person with pension income could have actual income of \$20,000 or more, but a very small adjusted gross income. In order to prevent this anomaly, your Committee has provided for the addition of all such exempt income to a person's adjusted gross income. This is accomplished through the use of what is called modified adjusted gross income. While this concept will perhaps result in some enforcement problems for the department of taxation, your Committee notes that this method has been used in prior income tax credits and is not new to the department.

Your Committee notes that many persons have also pointed out that prisoners are able to claim the excise tax credit. In the case of prisoners as opposed to others in a institution, by committing crimes they have forfeited many of their civil rights, are fully dependent on the State for their subsistence, and are not freely able to leave the prison. While others are in an institutional setting, they may leave such institutional setting freely upon their recovery or upon a person taking them into their own home. Thus, your Committee feels that prisoners are in a special class and, as they created their own institutionalization and are totally supported by the State, the State is able to deny them certain rights and benefits. Your Committee finds that the excise tax credit is a benefit which may be denied them. Your Committee has amended the provision to provide that only these persons in prison or jail for a full taxable year are excluded and to include persons in a youth correctional agency who could otherwise be claimed as a dependent.

Your Committee has provided that the increased credits and other amendments provided in this bill will drop dead after December 31, 1983. This provision will allow proper consideration of the new provisions in the bill and in case of continued economic problems in the State it would be prudent to return to reduced credits.

Your Committee on Finance is in accord with the intent and purpose of H. B. No. 2090-82, as amended herein, and recommends it pass Second Reading in the form attached hereto as H. B. No. 2090-82, H. D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 594-82      Finance on H.B. No. 2574-82

The purpose of this bill is to establish the Hawaii Aquaculture Advisory Council to assist the Board in coordinating aquaculture related programs and projects.

The development and promotion of aquaculture is important to the diversification of the State's economy. The potential growth of this emerging industry requires the careful coordination of its development in order to maximize resources. The membership of the proposed council will provide a broad spectrum of perspectives that will be necessary to guide this developing industry.

Your Committee has amended this bill by adding the director of the University of Hawaii's sea grant program to the list of voting ex officio members. Your Committee has further amended this bill by replacing the director of the University of Hawaii's sea grant programs and the division head of the state agricultural loan division with the director of the office of Hawaiian affairs and the director of the department of health as nonvoting members.

Your Committee has also made other technical, non-substantive, conforming amendments to the bill for style and clarity.

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

2574-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2574-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 595-82 Finance on H.B. No. 3061-82

The purpose of this bill is to appropriate moneys to examine the feasibility of alternative nonagricultural uses for lands in the Puna district.

Your Committee finds that at present the University of Hawaii is studying the possible agricultural uses of the lands in question. However, nonagricultural alternatives have not yet been addressed--a situation which should not be ignored.

Your Committee has amended this bill to expand the scope of the study to all agricultural land in the Puna district.

Your Committee has also added language to encourage community awareness of the study.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3061-82, H.D. 1 as amended herein, and recommends that it pass Third Reading in the amended form attached hereto as H.B. No. 3061-82, H.D. 2.

Signed by all members of the Committee except Representative Wong.

SCRep. 596-82 Finance on H.B. No. 2947-82

The purpose of this bill is to appropriate funds to the Department of Land and Natural Resources to support an aquaculture and live-stock feeds production program.

Your Committee finds that the cost of feed, and the additional cost associated with shipping bulk ingredients or compounded feeds from the mainland U.S. to Hawaii, significantly affects the profitability of commercial aquaculture in our State.

Your Committee further finds that research into cost-competitive feeds or ingredients is essential for developing the aquacultural industry and that the Oceanic Institute has developed the staff and infrastructure to perform this research.

Your Committee has amended section 2 of this bill to change the fiscal year of appropriation to 1982-1983. The lapsing date has also been amended to June 30, 1983.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2947-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2947-82, H.D. 2.

Signed by all members of the Committee except Representative Wong.

SCRep. 597-82 Judiciary on H.B. No. 2639-82

The purpose of this bill is to empower the Attorney General to adopt rules as deemed necessary for the operation and maintenance of public buildings where state law enforcement officers are employed. The bill also provides that infractions of the rules so promulgated shall be a petty misdemeanor.

The department of the Attorney General testified that a statutory change is necessary to provide the department with the power to promulgate rules to govern the activities on the premises of public buildings under the control of various state agencies, especially those buildings where law enforcement personnel are utilized.

Your Committee finds that rules are needed to provide for the protection of government property. Absence of security rules or regulations leads to confusion in the management of public buildings and public grounds upon which the public buildings are situated.

Finding that the bill as drafted is overly broad, your Committee has amended the bill to provide that the Attorney General may promulgate rules and regulations in accordance with Chapter 91, of the Hawaii Revised Statutes, and to provide for only the security



of public buildings and public grounds upon which the public buildings sit.

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

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2639-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2639-82, H.D. 1, and that it be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 598-82          Judiciary and Corrections and Rehabilitation on H.B. No.  
3023-82

The purpose of this bill is to provide that persons sentenced to imprisonment be committed to the custody of the Department of Social Services and Housing (DSSH) which in turn shall be vested with the responsibility of determining the place of confinement and program of redirection for these persons.

For a person sentenced to an indeterminate term of imprisonment, the court currently must commit the person to the custody of DSSH and must also determine the initial place of confinement. For a person sentenced to a definite term of imprisonment, the court currently must designate the institution or agency to which the person is committed. This bill would combine the procedure for definite and indeterminate sentencing to require that the court commit persons sentenced to prison to the custody of DSSH. The Department, rather than the court, is then vested with the responsibility of determining the place of imprisonment. In addition, regardless of the definite or indeterminate nature of the prison term imposed, DSSH is the responsible agency to determine programs of redirection for, and maintain custody over, committed persons.

Testimony was submitted by the Public Defender that this bill would eliminate discretion presently vested in the sentencing judge to order a youthful offender to be incarcerated at the Hawaii Youth Correctional Facility. Your Committees are convinced that this discretion in the sentencing judge should continue.

Accordingly, your Committees have amended this bill to exclude Section 352-10, Hawaii Revised Statutes, relating to persons committed to the Hawaii Youth Correctional Facility. In all other cases, the Director of DSSH shall determine the place of imprisonment.

Other technical, non-substantive amendments have also been made.

Your Committees on Judiciary and Corrections and Rehabilitation are in accord with the intent and purpose of H.B. No. 3023-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 3023-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 599-82          Housing on H.B. No. 1173

The purpose of this bill is to amend the laws relating to housing.

The amended purpose of this bill is to allow the Commission of the Hawaii Housing Authority to employ two assistant executive directors.

Your Committee heard testimony from the Hawaii Housing Authority on the Authority's expanded role and functions in housing since its establishment 47 years ago. The authorization for the appointment of two assistant executive directors would enable the Authority to administer and operate its housing programs more efficiently and effectively. The assistant executive directors would be held directly accountable to the Hawaii Housing Commission.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 1173, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1173, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 600-82 Finance on H.B. No. 2113-82

The purpose of this bill is to appropriate \$12,000,000 into the Rental Assistance Fund created by Act 111, Session Laws of Hawaii 1981.

Your Committee agrees that additional assistance is greatly needed to stimulate the production of rental housing. Private production of rental housing has virtually ceased and impending federal cutbacks in housing programs assure an even gloomier picture in the future. Act 111 amended the Hula Mae revenue bond program for multi-family rental housing by creating a rental assistance program that would operate much like the federal Section 8 rental program. Any appropriations to the rental assistance fund would be invested and the earnings therefrom would be used to make rental assistance payments to owners of eligible projects, thereby reducing rents paid by the eligible tenants. The principal amount of the fund would be preserved.

Your Committee approves the appropriation of \$12,000,000. Your Committee has amended this bill to provide a lapsing date.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2113-82, H.D. 1 as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2113-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 601-82 Finance on H.B. No. 2710-82

The purpose of this bill is to enable the department of agriculture to make loans to assist growers of raw sugar testing ninety-six sugar degrees by the polariscope, determined in accordance with regulations of the United States Department of Agriculture. These loans are to be made to growers whose production exceeds 5000 tons, and shall not be for terms of not more than twenty-four months.

Sugar producers are suffering deficits due to insufficient national protection from sugar imports subsidized by foreign governments. These loans will keep the sugar industry viable in this period of crisis for sugar producers.

Your Committee has amended this bill by rewriting the whole section for clarity purposes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2710-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. 2710-82, H.D. 2.

Signed by all members of the Committee except Representative Wong.

SCRep. 602-82 Housing and Water, Land Use, Development and Hawaiian Affairs  
on H.B. No. 2869-82

The purpose of this bill is to allow counties with populations under 250,000 to determine whether or not to allow "ohana zoning" and to extend the effective date of Act 229 to July 1, 1982.

The amended purpose of this bill is to clarify the application of the "ohana zoning" statute.

The 1981 Legislature found that as housing becomes more and more unaffordable for most of Hawaii's residents, increased densities in residential areas provide one means of alleviating Hawaii's housing demand. The 1981 Legislature thus enacted Act 229 to allow the construction of two-family dwelling units or two separate units for single family residential use on lots zoned for residential use, provided that adequate infrastructure was available to support the increased density. The counties were to establish review and permit procedures to implement the desired provisions by January 1, 1982.

The counties have encountered opposition to the imposition of "ohana zoning" in some communities and have expressed the need for more flexibility in implementing their programs. Upon further discussion, your Committees recommend the following amendments to H.B. No. 2869-82:

1) Page 1, line 9: Insert "and the County's planning standards". This clarifies that the provisions for an "ohana zoning" program must comply with a county's planning standards, which are clearly expressed in general plans, development plans and zoning codes. These county requirements must not unreasonably restrict the application of "ohana zoning". However, where clearly expressed standards have been established and apply generally to residential uses within the county, "ohana zoning" eligibility may be conditional to conform with these generally applicable standards.

2) Page 1, lines 15-16 - page 2, lines 1-4: Insert a new subsection (3) to read as follows:

That at the time of application for a county building permit for a second dwelling unit, the subject lot or land parcel is not restricted by a recorded covenant or lease provision in a lease having a term of not less than fifteen years prohibiting a second dwelling unit.

This is a "housekeeping" amendment which clarifies the fact that duly recorded covenants and leases prohibiting a second dwelling unit on a particular parcel override this section.

3) Page 2: Delete the provision that "each county with a population of 250,000 or less may decide whether or not this subsection is applicable in each county."

Your Committees believe that this clause may be unconstitutional in that the City and County of Honolulu would be excluded from the provisions of this bill and this section on the basis of population alone.

4) Page 2: Replace the provision that "each county shall establish a review and permit procedure necessary for the purposes of this subsection." with the following:

Each county shall establish by ordinance or by rule the procedures for;

- (a) the review of facts relating to (1), (2) and (3) above, and the designation process for each residential district or area found to be conforming which shall include prior public notice and a public hearing for property owners living within a designated residential district or area.
- (b) filing of applications and issuance of permits necessary for the purposes of this subsection.

This amendment clarifies the duties of each county in assuring public notice and input in the determination of areas suitable for increased residential densities under this section.

Your Committees wish to emphasize that the public notice and hearing procedure outlined apply to areas and districts rather than to single applications for increased densities on individual lots.

5) Page 2: Delete Section 2 of the bill which extends the effective date of Act 229, Session Laws of Hawaii 1981.

Your Committees wish to reaffirm their original commitment to the "ohana zoning" concept. Your Committees strongly oppose the total repeal of a measure which has not yet been implemented or tested in any county thus far. Moreover, your Committees do not intend that county planning standards and "ohana zoning" requirements be established that would effectively preclude the implementation of an "ohana zoning" program in any county and wish to emphasize that requirements imposed must be generally applicable to all residential uses in all residential areas.

Your Committees on Housing and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 2869-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2869-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 603-82      Finance on H.B. No. 2338-82

The purpose of this bill is to provide necessary funds for the planning and designing

of a biological research institute.

Your Committee finds that Hawaii is a world leader in the use of classical biological control of pests--that is, the introduction and establishment of natural enemies from different parts of the world to suppress local pest population. Hawaii has an enviable and probably the world's most outstanding record of success in practicing biological control. An outstanding recent success concerned the spiraling whitefly which was a terrible nuisance during the summer of 1980, but became rare by the summer of 1981 because of the suppressive action of the natural enemies introduced by the State Department of Agriculture.

This bill is proposed to assist the present program of biological control conducted by the State Department of Agriculture which is excellent but is somewhat limited by its present facilities.

Your Committee has amended this bill to replace the phrase "planning and designing of such a biological research institute" with "repair and renovation of existing facilities." Your Committee upon further investigation has found that repair and renovation of the existing facilities will provide for the Department of Agriculture's needs adequately.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2338-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2338-82, H.D. 2.

Signed by all members of the Committee except Representative Wong.

SCRep. 604-82      Finance on H.B. No. 2070-82

The purpose of this bill is to appropriate or authorize, as the case may be, supplementary funds to various state programs for the fiscal biennium 1981-83. As amended by your Committee, the bill provides an additional \$20.4 million in general fund operating costs and \$1.2 million in special fund operating costs for fiscal year 1982-83.

The amended bill also provides for \$235.7 million worth of capital improvement projects for the fiscal year 1982-83. Of this total, \$76.6 million is in general obligation bond funds, \$6.9 million is in general fund cash and \$16.8 million is in general obligation bond funds-reimbursable.

Your Committee agrees that a supplementary budget bill for the fiscal biennium 1981-83 is necessary to augment existing appropriations in areas where unanticipated or urgent program needs exist. Additionally, authorizations for significant capital improvement projects in the 1982-83 fiscal year are required since legislative sanction was deferred in the 1981 session. However, although financial projections have still indicated a general fund surplus by the end of FY 1982-83, your Committee has approached the supplemental budget with a measure of caution. Continued adherence to a cautious fiscal policy is indicated by recent declines in the State's visitor industry, the anticipation of a prolonged national recession and potentially devastating reductions in federal budget support to the State. It is your Committee's belief that revenue collections may not continue at their formerly favorable levels 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 the report, the major program recommendations of your Committee on the supplemental appropriations bill are covered.

#### ECONOMIC DEVELOPMENT

##### Product Promotion

Your Committee has provided \$200,000 in State funds for the promotion of fresh pineapples in the western United States and western Canada. These funds, which are to be matched dollar for dollar by the pineapple industry, will be used for a media campaign aimed at increasing consumption of fresh Hawaiian pineapple. Your Committee

agrees that a fresh Hawaiian pineapple advertising and promotion program represents the best means of increasing the viability of Hawaii's pineapple industry which is faced with tremendous world competition and a glut of canned pineapple on the market.

#### Energy

Spiralling prices for imported oil, coupled with the growing political instability of oil-producing nations, have intensified the interest in energy issues. Hawaii is fortunate in that we are a state rich in alternative renewable energy resources. In continuing our commitment to the research and development of these alternate sources of energy, your Committee has provided for the authorization of \$1.5 million in general obligation bonds.

Your Committee further recognizes that substantial immediate savings in energy dollars can be realized by conservation measures. Thus, \$1,225,000 has been provided in general obligation bond funds to be matched by federal funds, for energy conservation measures in hospitals, schools and other public buildings.

#### EMPLOYMENT

Recognizing the need for current, accurate and locally relevant occupational, educational, training and job information, your Committee has provided funds in the areas of career planning and job statistics collection.

#### TRANSPORTATION

The need to establish a general aviation airport remains a controversial issue. Your Committee recognizes that joint use of Wheeler Air Force Base is no longer a realistic alternative. Thus, funds have been provided for a general aviation airport at Dillingham Field.

#### HEALTH

Funds have been provided in the areas of family planning, health care services and support for mental retardation to maintain services which would otherwise be eliminated due to reductions in federal funding.

Due to an increased patient census at the Hawaii State Hospital, an additional adult care ward will be required. Supplemental funding has been provided to staff and operate the new facility in order to relieve overcrowded conditions.

Your Committee has also provided funding for continuing contractual services with the City and County of Honolulu to operate the emergency medical service system on Oahu.

#### LOWER EDUCATION

Prior legislatures have generally been supportive of Hawaii's public school system. However, during periods of fiscal austerity, schools have had to bear their share of cutbacks and reductions in the budget. While to many, fiscal moderation may seem most appropriate at this juncture in view of the threat of massive federal fund cutbacks, your Committee has not chosen to take the easiest or most obvious course. Rather, after careful examination, it has decided to make a substantial but judicious investment in the future of our state by providing funds for two proposals, one for early intervention and another, for school discretionary funds, which are intended to strengthen the educational system and to provide greater opportunity for our island children to receive a quality education. In terms of spending taxpayers' dollars, your Committee believes that the best dollars are those spent on our youngsters through the education system, for these youngsters are our tomorrow.

By providing funds for the early screening of kindergarten students and high-risk first graders throughout the state, your Committee reaffirms its special commitment to the early childhood education. More specifically, by allowing children who are just starting school or who are enrolled in the first grade to be screened in five areas of development, i.e., visual, auditory, language, gross motor and fine motor development, it is intended that those with more developmental needs than others will be recognized early enough so that their needs can be properly met. In this manner, it is hoped that our youngsters will be afforded the opportunity to begin school on a very positive note.

Moreover, by making an appropriation for the establishment of a School Priority Fund which would provide schools with equitably distributed discretionary funding for supplies, textbooks, equipment and services, your Committee reaffirms its belief that the individual schools, each with unique strengths and weaknesses, are the best arbiters of their own needs and priorities. Positions from the Instructional Resource Augmentation/3-on-2 program have also been included in the School Priority Fund. Beginning in September 1983, these resources are to be reallocated to schools on the basis of student enrollment. A two-year time frame has been allowed to minimize disruption to ongoing programs during the transition.

Comprising approximately five percent of the total department of education budget, the School Priority Fund is designed to consolidate, coordinate, and equitably distribute the diverse resources which supplement the regular instructional program of Hawaii's public schools. Then, too, it is intended to strengthen the scope of decision-making and increase flexibility in resource allocation at the school level and to provide a systematic method of conforming resource allocation to the unique needs of individual schools and to ever-changing school priorities. To assure accountability, control, and sound planning in the use of funds, the department of education has been assigned the task of instituting appropriate procedures, maintaining records and preparing expenditure reports.

In addition, your Committee has included funds to provide enrichment in the arts for both elementary and secondary school students and the development and implementation of a marine and aquatic education program for all students in the state. Your Committee has also appropriated monies for additional vice principal positions to be allocated to high schools and combination high/intermediate schools by standard formula and for all secondary schools with enrollments over 1,000 to have full-time student activities coordinators. In like manner, 35 athletic director positions have been converted to permanent status. With these additions your Committee underscores its total commitment to Hawaii's youth.

#### HIGHER EDUCATION

Your Committee still remains gravely concerned over the lack of an internal reallocation plan to move available resources from those areas where student demand had declines to new areas of high demand. To emphasize this concern, your Committee has deleted funds requested by the University to continue temporary positions which were funded for the first year of the biennium only.

Your Committee has included funds to offset the elimination of federal support that had been an integral part of the University's operating budget for a number of years. The affected programs include agriculture, medicine, water resources, and vocational education.

Your Committee has also included funds to meet the anticipated electricity funding deficits at the various campuses.

#### INDIVIDUAL RIGHTS

Recognizing that the Department of Regulatory Agency's Professional and Vocational Licensing Division has many problems, all of which are documented in the Legislative Auditor's Evaluation of the Professional and Vocational Licensing Program of the Department of Regulatory Agencies, your Committee has provided funds for the computerization of the professional and vocational licensing process. This project is intended to lessen response time to inquiries regarding licensure status and to eliminate or reduce the time now required to perform certain clerical functions.

Funds have also been appropriated to allow attorneys in the Office of the Public Defender to receive salary adjustment in addition to previously unbudgeted collective bargaining increases. Your Committee recognizes that state salaries are markedly lower than salaries awarded at the county and federal levels. While an attempt is made to narrow the gap, future action is required to close it.

#### GOVERNMENT-WIDE SUPPORT

The coastal zone management program is another victim of the massive cutbacks in federal funds. However, your Committee agrees that the program should be continued, at least at its current level, to assure orderly and thoughtful development of the state's coastal areas. Since the counties play an indispensable role in the management of



these coastal areas, your Committee has provided State support to the counties to carry out the special management area permit function mandated by the coastal zone management law.

The Executive has recently alerted the Legislature of an anticipated shortage of funds in the workers' compensation account for state employees for both the current and upcoming fiscal years. Funds have been provided to cover these anticipated deficits, however, there is great concern over the rapidly rising costs of workers' compensation insurance. Your Committee strongly urges the Executive to closely monitor expenditures from this account; to seek means of reducing the State's liability for workers' compensation in the future; and, to advise the Legislature on these matters.

Your Committee has also authorized the issuance of general obligation bonds to finance the implementation of Kaka'ako Community Development District Plan. The initial implementation phase will include improvements such as the upgrading of roadways, sewerage, drainage, water, and electrical systems.

#### GRANTS-IN-AID

Your Committee has provided a total of \$9.2 million in fiscal year 1982-83 for grants in aid to private agencies. As with numerous state programs, some of the private agencies have undergone substantial fund reductions due to federal fund cutbacks. Your Committee believes that continuation of the services provided by these agencies is desirable and has appropriated funds to permit such continuation.

Your Committee has appropriated funds to Home Na'auao I Ka'u - The Mill, with the intent that future state grants-in-aid will not be forthcoming. The funds appropriated for fiscal year 1982-83 are provided as an interim measure while the project works toward achieving self-sufficiency.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2070-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2070-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Levin.

SCRep. 605-82 Youth and Elderly Affairs and Judiciary on H.B. No. 2224-82

The purpose of this bill is to prohibit discrimination on the basis of a person's age for an appointment to boards and commissions which requires part-time service.

Your Committees find that the Department of Regulatory Agencies is not aware of any age discrimination pertaining to this bill; however, the department has submitted testimony indicating no objection to the passage of this bill.

Your Committees have amended H.B. No. 2224-82 by deleting the specific amendments of Chapters 21, 26, and 601 and Sections 26-34 and 26-41 of the Hawaii Revised Statutes and by amending Section 78-4, Hawaii Revised Statutes, to denote subsections and add a new subsection to read as follows:

(b) Any other provision of the law to the contrary notwithstanding, no nomination or appointment to a State or county board or commission, whether temporary or permanent and which requires part-time service, shall be denied to a person of or over the age of majority due to that person's age; provided that this subsection shall not apply when a law relating to a particular board or commission requires a member or members thereof to be of a specified age or age groups.

Your Committees believe that the purpose of the bill is more fully effectuated by this change. It was also felt by the Committees that specifying the status of full time, and age seventy years or older was contradictory to the intent of the bill.

Your Committees on Youth and Elderly Affairs and Judiciary are in accord with the intent and purpose of H.B. No. 2224-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2224-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Blair, Kunimura and Waihee.



SCRep. 606-82 Finance on H.B. No. 2086-82

The purpose of this bill is to provide a permanent \$50 income tax refund for each resident taxpayer who files an individual income tax return under chapter 235, Hawaii Revised Statutes, for taxable years commencing on January 1, 1982.

Your Committee has amended the bill by deleting the contents of this bill and inserting provisions to provide a one-time \$25 income tax credit for each resident taxpayer who qualifies for an excise tax credit under section 235-55.5(a), Hawaii Revised Statutes, multiplied by the number of qualified exemptions, but not multiple exemptions for age or deficiencies in vision, hearing, or other disability. The amended version of the bill provides an income tax credit for all resident taxpayers who qualify for an excise tax credit for the 1982 taxable year.

Your Committee notes that certain individuals who are not presently residing in the State but are nevertheless considered residents for income tax purposes have paid income taxes to the State and therefore should also be provided the tax credit. Your Committee therefore has added a provision that the tax credit shall apply to such resident individuals regardless of whether they have physically resided in the State for nine months; provided that such individuals are defined as residents under section 235-1, Hawaii Revised Statutes. This will allow residents, whether in or out of the State to claim the credit, but will prevent transients from obtaining the credit.

Your Committee further notes that many persons have also pointed out that prisoners are able to claim the excise tax credit. In the case of prisoners as opposed to others in an institution, by committing crimes they have forfeited many of their civil rights, are fully dependent on the State for their subsistence, and are not freely able to leave the prison. While others are in an institutional setting, they may leave such institutional setting freely upon their recovery or upon a person taking them into their own home. Thus, your Committee feels that prisoners are in a special class and, as they created their own institutionalization and are totally supported by the State, the State is able to deny them certain rights and benefits. Your Committee finds that the excise tax credit is a benefit which may be denied them. Your Committee has added a provision to provide that only these persons in prison or jail for a full taxable year are excluded and to include persons in a youth correctional agency who could otherwise be claimed as a dependent.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2086-82, as amended herein, and recommends that it pass Second Reading and be placed on the calendar for Third Reading in the form attached hereto as H.B. No. 2086-82, H.D. 1.

Signed by all members of the Committee except Representatives Levin and Wong.

SCRep. 607-82 Finance on H.B. No. 3137-82

The purpose of this bill is to appropriate out of the revenue bonds funds the sum of \$31,927,000 for the reserved housing program portion of the initial development increment of the Kaka'ako Community Development District and to authorize the Hawaii Community Development Authority to issue these revenue bonds.

The Hawaii Community Development Authority indicated that revenue bond funds will be required to enable the Authority to purchase reserve housing units from developers and to allow the Authority to make loans to qualified buyers who will purchase the reserved housing units.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3137-82, H.D. 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Wong.

SCRep. 608-82 Finance on H.B. No. 2312-82

The purpose of this bill is to provide supplemental appropriations to the Judiciary for the fiscal year 1982-83.

Your Committee has amended this bill to provide an additional \$3,021,403 in general funds for fiscal year 1982-83 for the operation of the Judiciary. This brings the general fund appropriation for fiscal year 1982-83 to the Judiciary to \$28,736,437.

New programs mandated by the Legislature, such as the juvenile intake agency, and transfer of functions from the executive to the judiciary (e.g., prisoner transport program, security services) accounts for a large portion of this supplemental budget. Funds are also provided for various items to increase the Judiciary's efficiency and effectiveness in providing services to the public.

Included in this bill is an additional authorization of \$10,756,000 in general obligation bond funds for capital improvement projects for the Judiciary.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2312-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2312-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Wong.

SCRep. 609-82      Finance on H.B. No. 2205-82

The purpose of this bill is to amend section 236-27, Hawaii Revised Statutes, to require that inheritance tax returns filed with the Department of Taxation be complete returns.

Under the present law the personal representative of an estate is required to file an inheritance tax. However, there is no statutory requirement that the return be complete to the point of determining tax liability or the payment of any tax due at the time of filing the return.

This bill will conform the inheritance tax law to other Hawaii tax laws in requiring that the taxpayer file a complete return and pay all taxes due at the time the return is filed.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2205-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 610-82      Finance on H.B. No. 2900-82

The purpose of this bill is to protect the public health, safety, and welfare of school children in the State of Hawaii by regulating peddling in school zones.

At the hearing held on this bill, testimony was presented by the Department of Health, the Department of Education, the Hawaii Government Employees Association, and the Hawaii PTSA in support of the bill's intent.

Although expressing concern about the nutritional health of school children in Hawaii and recognizing that students may be tempted to buy snacks from vendors rather than buy school lunches, the Department of Health did not feel that it should be the administrator or enforcer of the provisions of this bill as such functions do not fall within the scope of its duties as a public health agency. The Department suggested instead that the respective county police departments would be the more appropriate agencies to carry out these functions.

The Department further testified that the language setting forth the time period during which the selling of foodstuffs or other merchandise is prohibited does not clearly establish whether such a prohibition is in effect during the lunch hour. The Department therefore recommended that the prohibition cover an all-inclusive period from one hour before the start of school until one hour after the students are dismissed, and that it also pertain to any solicitor or canvasser as such persons might deal in food or other commodities.

The testimony of the Department of Education reflected that agency's concern about the problems which may be created by the presence of peddler wagons near school campuses, particularly in regard to traffic safety for students as well as passing motorists, the passing and selling of drugs, truancy, trespassers on school campuses, physical

violence, campus beautification, and the way in which students spend their money.

After careful consideration of the testimony received, your Committee has amended this bill as follows:

- (1) Deleting "nutritional" (p. 1, line 7); "nutritional and well" (p. 1, line 10); "and consumption of nutritious foods" (p. 1, lines 13-14); and "pedestrian" (p. 1, line 14) and insertion of "student" in lieu thereof.
- (2) Deleting the definitions of "director" and "solicitor or canvasser" under the definitions section on page 2; and defining "school zone" to mean "the area within the boundaries of any school and each and every street and all property or ways within 1,000 feet of the boundaries of any school", to clarify that school grounds are included as part of the school zone.
- (3) Deleting the section regarding powers of the director of health (p. 2, lines 14-25 and p. 3, lines 1-4), in line with the testimony of the Department of Health.
- (4) Amending the prohibition section to read: "It shall be unlawful for any itinerant vendor, peddler, huckster, or lunchwagon to sell foodstuffs or other merchandise to children who are enrolled in grade levels kindergarten through twelve in any school zone, from one hour before the school session commences and until one hour after the regular school session; provided that this section shall not apply to any authorized person participating in any school-related function or operation".

In deleting the exemption for authorized participants in city or county sponsored market programs, your Committee feels that these participants, while not being totally prohibited from carrying on their activities, should be subject to the prohibition against selling their wares to children during the specified time period. Your Committee further feels that in carrying out their activities, these participants should coordinate these activities with the schools involved as well as the police departments, in order to protect the public from traffic hazards that may be created as a result of these activities in any school zone.

- (5) Deleting "or any rules promulgated hereunder" (p. 3, lines 14-15); "no more than" (p. 3, line 16); and inserting "\$500" as the amount of the fine under the penalty section.
- (6) Deleting "or any of the rules adopted hereunder" (p. 3, line 20).
- (7) Deleting the section on injunctions to restrain violations (p. 3, lines 21-22 and p. 4, lines 1-3).
- (8) Deleting the section on transfer of authority and responsibility (p. 4, lines 4-7).
- (9) Deleting the appropriations section (p. 4, lines 8-11).

Your Committee has also made technical, non-substantive amendments for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2900-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2900-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Levin, Narvaes and Wong.

SCRep. 611-82      Finance on H.B. No. 2849-82

The purpose of this bill is to amend the Health Fund Law to require public employers to increase the monthly contributions of a health benefits plan for their employee-beneficiaries and the monthly contributions for dental benefits of dependent children.

Your Committee has found that over the years the Legislature has periodically amended the Health Fund Law as required to increase the fixed amount contributions because

of increases in cost of the health benefits plan. Periodic adjustment of the fixed dollar amount provides an opportunity for the Legislature to review the cost of the employees Health Fund.

Your Committee has amended this bill to increase the fixed dollar monthly contribution amount to \$15.98 for self only and \$49.14 family enrollment for the health benefits plan and \$5.28 for dental benefits.

Your Committee has deleted the appropriation section as unnecessary.

Your Committee on Finance is in accord with the intent and purposes of H.B. No. 2849-82, as amended herein, and recommends it pass Second Reading in the form attached hereto as H.B. No. 2849-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Wong.

SCRep. 612-82 Consumer Protection and Commerce on H.B. No. 3176-82

The purpose of this bill is to provide persons who have a minimum of five years of full-time lawful experience in landscape architecture and a pre-landscape architectural degree the opportunity to be eligible for registration as a professional landscape architect.

Your Committee has received substantial support for this bill by members of the landscape architecture and planning professional community. These professionals have noted the extensive knowledge, skill, and competence acquired through work experience in this area and are of the opinion, based on their individual work experience both in the private sector as well as service on the state Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects, that the existing law requiring twelve years of landscape architectural experience imposes an inordinate period of time far beyond that which is necessary for registration eligibility.

After careful deliberation of the testimony received, your Committee found that the purpose of the bill could be achieved by allowing a person with six years of full-time lawful experience in landscape architecture, the opportunity to apply for registration as a professional landscape architect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 3176-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3176-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chun, Hirono, Nakamura, Waihee, Liu and Medeiros.

SCRep. 613-82 Judiciary on H.B. No. 2479-82

The purpose of this bill is to empower the family court to terminate the parental rights in cases where the child has been removed from the parent's custody for a period of at least one year, because of physical or emotional deprivation or abuse of the child.

Your Committee finds that present law, Section 571-61, Hawaii Revised Statutes, (Termination of Parental Rights), does not permit termination of parental rights of children who have been physically or emotionally abused. The courts' present authority is limited to cases of neglect or abandonment.

Numerous organizations and the Family Court testified in favor of passage of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2479-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2479-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 614-82          Judiciary on H.B. No. 3138-82

The purpose of this bill is to deter shoplifting by providing civil damages to a mercantile establishment owner whose merchandise has been stolen.

This bill provides that an adult or emancipated minor who shoplifts shall be civilly liable to the shop owner for a penalty in the amount of the retail value of the merchandise not to exceed \$500, plus an additional penalty to the owner of not less than \$100 nor more than \$250. The parents of an unemancipated minor who shoplifts would be subject to a fine payable to the owner in the amount of the retail value of the merchandise up to \$250 plus an additional penalty of not less than \$100 nor more than \$250 also payable to the owner.

Your Committee recognizes that the rate of shoplifting has rapidly increased in recent years. The Retail Merchants of Hawaii, which represents over 600 retailers, reported over \$6.4 billion in sales in 1980 with \$35.4 million in losses due to shoplifting. Ultimately, the community pays for the business losses in the form of higher retail prices.

Your Committee finds that criminal penalties which may be imposed under current statutes fail to adequately address the problems caused by shoplifting; hence, some form of civil liability in support of criminal penalty should help to cut down shoplifting.

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

Your Committee also believes that this bill will (a) aid shop owners recoup their losses and (b) deter shoplifters by penalizing them in their pocketbooks.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3138-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3138-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 615-82          Judiciary on H.B. No. 2231-82

The purpose of this bill is to repeal the present law on the determination of death and enact the Uniform Determination of Death Act.

Your Committee finds that the Uniform Determination of Death Act as drafted by the National Conference of Commissioners on Uniform State Laws and approved by the American Medical Association and the American Bar Association, and extends the common law to include the new techniques for determination of death.

Your Committee has amended the bill to include provisions similar to our present law relating to direct organ transplantation, safeguards against withdrawal of life support services before pronouncement of death, applicability to all death determinations, and a review committee to review the basis for determining death under this Act.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2231-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2231-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Ikeda and Liu.

SCRep. 616-82          Water, Land Use, Development and Hawaiian Affairs and Agriculture  
on H.B. No. 2327-82 (Majority)

The purpose of this bill is to establish a base for the identification of important agricultural lands of the State as required by Article XI of the Constitution of the State of Hawaii.

Your Committees find that the purpose of the bill is to be accomplished by:

1. Adopting the Agricultural Lands of importance to the State of Hawaii system (ALISH);

2. Requiring all public agencies to use the ALISH system to identify important agricultural lands of the State and conduct public policy with that identification as a base;
3. Requiring the Board of Land and Natural Resources to consider ALISH criteria prior to disposition of public lands;
4. Replacing the Land Study Bureau Land Classification System with the ALISH in Chapter 205-4.5, Hawaii Revised Statutes, relating to permissible uses within agricultural districts.

Your Committees find that the bill would protect our best agricultural lands for agricultural uses.

Your Committee on Water, Land Use, Development and Hawaiian Affairs and on Agriculture are in accord with the intent and purpose of H.B. No. 2327-82 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Morioka, Isbell and Monahan.  
(Representative Monahan did not concur.)

SCRep. 617-82            Water, Land Use, Development and Hawaiian Affairs and Culture  
and the Arts on H.B. No. 1251 (Majority)

The purpose of this bill is to amend Section 184-1, Hawai'i Revised Statutes, by adding a definition of cultural "live-in parks". Your Committees are in accord with the purpose of this bill which would expand Hawai'i's park system to include areas where traditional native Hawaiian technologies, rituals, and values can be practiced, interpreted, and perpetuated.

Testimony by the Department of Land and Natural Resources endorsed the concept of a "live-in park" with certain qualifications. The Department suggested that criteria be established regarding management, operation and use of said parks before any be developed. Your Committees agree with the testimony presented and have amended the bill to allow the Department to make, amend, and repeal rules and regulations, subject to Chapter 91, providing for the implementation of cultural "live-in parks".

Your Committees also amended the bill by providing that cultural "live-in parks" conform where possible to zoning laws and ordinances. In addition, the Department is mandated to secure such variances as may be required to implement the "live-in park" concept.

Your Committees further amended the bill to provide for a definition for "Hawaiian" in order that Hawaiians who can trace their island ancestry to 1778 shall qualify for residence at a cultural "live-in park".

Finally, your Committees have made technical non-substantive changes in regard to the bill.

Your Committees on Water, Land Use, Development and Hawaiian Affairs, and Culture and the Arts, are in accord with the intent and purpose of H.B. No. 1251, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1251, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Aki, Ige, Kawakami, Morioka, Monahan and Narvaes.  
(Representative Hashimoto did not concur.)

SCRep. 618-82            Public Employment and Government Operations and Judiciary  
on H.B. No. 2640-82 (Majority)

The purpose of this bill is to give the stadium authority, in accordance with Chapter 91, Hawaii Revised Statutes, powers to make, amend, and repeal such rules as it deems necessary for the operation of Aloha Stadium. It authorizes all law enforcement officers with police powers to arrest and to issue citations. It also specifies that a person convicted of rule violations shall be guilty of a petty misdemeanor punishable by a fine or imprisonment or both.

Presently neither the stadium security police nor the city police have the authority to arrest or cite violators of Administrative Rules of Aloha Stadium. Rules promulgated by the stadium authority for conduct, traffic, or parking are not enforceable because of the lack of statutory provisions. Examples where rules are broken and not enforceable could be for speeding in the parking lot, for illegal parking thus blocking traffic, and for disrupting a ball game by entering the playing field. Disregard for rules such as these could endanger the health and welfare of patrons of Aloha Stadium.

Your Committees recognize the problems of giving police powers to untrained personnel and therefore, this bill has only authorized those persons already with police powers to enforce the rules of the stadium authority. The bill also specifies the penalties for any person convicted of violating any rule of the stadium authority regulating conduct, parking, or traffic on the stadium premises shall be guilty of a petty misdemeanor punishable by a fine not exceeding \$500, or imprisonment not exceeding 30 days, or both.

The following amendments were made to H.B. No. 2640-82 to comply with the intention of your Committees. Chapter 109- proposed new section on page 3 of this bill was amended to read:

1. §109- (b) Any law enforcement officer who has police powers to arrest offenders and issue citations, including any police officer of the counties, shall have the authority to enforce any rule promulgated pursuant to this section.
2. §109- (c) Any person convicted of violating any rule of the stadium authority regulating conduct, parking, or traffic on the stadium premises shall be guilty of a petty misdemeanor punishable by a fine not exceeding \$500, or imprisonment not exceeding 30 days, or both.
3. §109- (d) deleted completely.
4. §109- (e) deleted completely.

Your Committees on Public Employment and Government Operations and Judiciary are in accord with the intent and purpose of H.B. No. 2640-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2640-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Nakamura and Nakasato.  
((Representative Dods did not concur.))

SCRep. 619-82          Public Employment and Government Operations on H.B. No. 2857-82

The purpose of this bill is to improve the stability of the collective bargaining process while re-negotiations are underway between an incumbent union and management at the end of a current contract agreement. The bill would effectuate such purpose by amending section 89-7, Hawaii Revised Statutes, relating to elections, by amending the time period in which a challenging public employee's union may petition HPERB for the right to challenge an incumbent organization from 60-90 days before the expiration of a valid collective bargaining agreement to 60-90 days after the expiration of such an agreement.

By moving the challenge period from before the expiration of an existing contract to after such an agreement has terminated, the bill intends to stabilize the context in which public employee labor contracts are negotiated. Challenging unions would be precluded from initiating their challenge during the critical period in which negotiations are underway.

Your Committee, however, believes that public employees should continue to have the right to determine a representative of their own choosing, at reasonable times, without unduly disrupting stability in labor-management relations.

Therefore, your Committee, after duly considering the original bill and the testimonies, both pro and con, has amended the bill in the main by ~~deleting~~ all of the proposed amendments to section 89-7, Hawaii Revised Statutes, and instead has redrafted the



amendments to the proposed subsection (c) of section 89-7 (the third paragraph of the section 89-7 as it currently reads) to read as follows:

(c) No election shall be directed by the board in any appropriate bargaining unit within which (1) a valid election has been held in the preceding twelve months; or (2) a valid collective bargaining agreement is in force and effect and, while such agreement is in force and effect, a new agreement is ratified and executed prior to the expiration date of the current agreement. After March 31, 1985, the existence of an agreement shall not bar an election in any appropriate bargaining unit unless a valid election has been held within the last three years preceding the filing of a petition for election. The board shall conduct the election after the expiration date of the agreement in force and effect when the petition is filed.

Your Committee believes that this amendment will help to reduce the amount of labor chaos which could occur if a challenger intervenes for representation election purposes during the bargaining process. A greater degree of labor-management stability, your Committee believes, is in the best interests of our public employees and the collective bargaining process.

Your Committee also made other conforming amendments and other amendments of an essentially non-substantive nature.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 2857-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2857-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Nakasato.

SCRep, 620-82            Judiciary and Corrections and Rehabilitation on H.B. No.  
2937-82

The purpose of this bill is to amend the law on adult probation records (Section 806-73) to clearly specify that adult probation records of the adult probation division are confidential, and not public records.

The bill will clearly specify what agencies will be entitled to review the adult probation division are confidential, and not public records.

The bill will clearly specify what agencies will be entitled to review the adult probation division case records, including presentencing reports.

Your Committees find that there are two types of records prepared by an adult probation officer. First, the case record which is a running log of events about the offender and second, the presentence report. Both of these records contain confidential reports received either from the offender himself or from other sources. Unrestricted access to these records will be a breach of the confidentiality under which the information was obtained, and will have a chilling effect on the work of adult probation officers.

In U.S. v. Walker, 491 F.2d. 236, (9th Cir. 1974) cert. denied 416 U.S. 990 (1974), the court held that a presentence report prepared for the courts' use is confidential and need not be disclosed even for potential impeachment purposes.

The bill provides that a viewing of the case record shall be permitted only to the prosecuting attorney and the defendant's counsel and under the supervision of the court. The bill has been amended to add the Hawaii Paroling Authority as an additional party to review the presentencing report of the adult probation officer, provided that the subject of the records has been incarcerated. Your Committees believe that the Hawaii Paroling Authority should have the benefit of the presentencing report in setting minimum terms and granting paroles.

Your Committees on Judiciary and Corrections and Rehabilitation are in accord with the intent and purpose of H.B. No. 2937-82, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2937-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 621-82      Judiciary on H.B. No. 2972-82

The purpose of this bill is to amend Section 669-3, Hawaii Revised Statutes, by requiring notices of quiet title actions to be published in an English language publication in the circuit where the action has been filed and in an English language publication with statewide circulation if the action is filed in a circuit other than the First Circuit.

Your Committee finds that cases involving quiet title actions may be published in foreign language publications or in newspapers whose circulation is limited to a single island. Presently, the statutes only require notices to be given in publications having a general circulation in the circuit in which action has been instituted. However, when defendants are unknown or reside in another circuit the present notice requirement through publications does not provide adequate notice of quiet title actions.

Your Committee received testimony that most quiet title actions involve lands on the neighbor islands and the unknown parties who may have interests in the lands, for the most part, live in the First Circuit (Oahu).

Accordingly, the requirement that summons be published in an English language publication and in a newspaper of statewide circulation where the cause of action is filed in a circuit other than the First Circuit Court (Oahu) will go a long way to insure that notice of action as to quiet title will reach the greatest number of parties who may have an interest in the real property.

Your Committee has made a technical, non-substantive amendment to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2972-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2972-82, H.D. 1.

Signed by all members of the Committee.

SCRep. 622-82      Finance on H.B. No. 2336-82

The purpose of this bill is to provide for the research and development of disease resistant and high yielding varieties of sugar cane.

Your Committee finds that the College of Tropical Agriculture and Human Resources, University of Hawaii, develops an industry analysis and action plan for each of the leading commodity groups which make up the agriculture industry in Hawaii. The University of Hawaii is now in the process of preparing an updated sugar industry analysis and action plan which will identify all areas of research required by the industry to increase yields and reduce the costs of production.

Your Committee has amended this bill to appropriate \$1. Your Committee has also amended this bill to provide that the appropriated amount shall be expended by the department of agriculture.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2336-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2336-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 623-82      Finance on H.B. No. 2162-82

The purpose of this bill is to eliminate the specific limit (\$6,000) imposed on the Hawaiian Homes Commission for the compensation for agricultural experts.

Your Committee finds that the limit was set at the time the Hawaiian Homes Commission Act was enacted (July 9, 1921), and that the \$6,000 figure is no longer realistic and, in fact, could hinder the work of the Commission. The proposal is long overdue.

Your Committee has amended this bill to provide for a \$20,000 annual limit.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2162-82, as amended herein, and recommends that it pass Third Reading in the form

attached hereto as H.B. No. 2162-82, H.D. 1.

Signed by all members of the Committee except Representative Wong.

SCRep. 624-82 Finance on H.B. No. 2201-82

The purposes of this bill are 1) to allow the Hawaii Housing Authority to issue \$25 million in tax exempt revenue bonds under the Hula Mae program to finance home improvement loans and 2) to make a "housekeeping" amendment to Section 356-212 relating to the payment and security of revenue bonds.

In 1979, the Legislature enacted the Housing Loan and Mortgage Act to permit the issuance of revenue bonds for the permanent financing of single-family homes. This bill would extend the successful Hula Mae program to cover permanent financing for home improvements which refers to any alterations, repairs or improvements to existing housing units to improve their basic livability.

This "housekeeping" amendment to the Housing Loan and Mortgage Act would relieve the Hawaii Housing Authority of the burdensome obligation of assigning and delivering to the trustee each mortgage note and the related mortgage for each mortgage loan purchased under the Hula Mae program. The proposed subsection (d) on page 4 would provide adequate assurance to bondholders that the pledge made by the authority on behalf of the bondholders is a perfected and enforceable pledge.

Your Committee agrees with the intent of this bill and has made technical non-substantive amendments.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2201-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2201-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 625-82 Finance on H.B. No. 2051-82 (Majority)

The purpose of this bill is to restructure and strengthen the state environmental impact assessment program. This bill removes the Office of Environmental Quality Control (hereinafter OEQC) and the Environmental Council from the administration of the Department of Health and places them under the administration of the Department of Budget and Finance. This bill also eliminates the Environmental Quality Commission by transferring its responsibilities to the OEQC and the Environmental Council.

The OEQC was established to act as an independent agency to implement the environmental impact assessment program for the state. The Environmental Quality Commission and the Environmental Council were each set up to serve as citizen based review and advisory boards. They were each to act as liaisons between the general public, private interests, state agencies and the Governor.

Presently, there is a need to clarify and delineate the role and function of each of the three entities so that state environmental impact assessment program can be carried out more efficiently. This bill will eliminate the Environmental Quality Commission and transfer its responsibilities and functions to the OEQC and the Environmental Council.

The OEQC and the Environmental Council are both under the administration of the Department of Health. Your Committee believes that the Department of Health is faced with a possible conflict of interest where the administration of the OEQC and the Environmental Council is concerned. To eliminate this conflict this bill places the OEQC and the Council under the administration of the Department of Budget and Finance to allow both offices a greater opportunity to act effectively and independently towards fulfilling the goals of the state environmental policy.

Your Committee has amended this to make non-substantial technical changes to clarify the intent of this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2051-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2051-82, H.D. 2.

Signed by all members of the Committee except Representative Wong.  
(Representative Narvaes did not concur.)

SCRep. 626-82          Finance on H.B. No. 2083-82

The purpose of this bill is to amend section 346-29, Hawaii Revised Statutes, to allow the Department of Social Services and Housing to require from any applicant or recipient the assignment of any benefits occurring under private health insurance coverage or automobile insurance coverage in determining eligibility for medical assistance. Any rights or amounts so assigned shall be applied against the cost of medical care paid by the Department.

Presently the Department of Social Services and Housing does not require an assignment of health insurance benefits. Applicants and recipients are required to utilize all available health insurance coverage prior to receiving medical assistance, thus making DSSH the last payor. Assignments of benefits is requested from applicants and recipients in any known accident or accident related cases where liability may exist.

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

Your Committee in Finance is in accord with the intent and purpose of H.B. No. 2083-82, H.D. 1 as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2083-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 627-82          Finance on H.B. No. 2043-82

The purpose of this bill is to establish a loan fund to encourage and promote the installation and use of solar energy devices and heat pumps in residential structures used as dwelling units.

Your Committee finds that solar energy devices and heat pumps provide an alternative to imported fuels which is economically feasible, environmentally preferable to conventional energy sources, and readily adaptable to existing residential structures.

Many homeowners cannot afford to purchase solar energy devices and heat pumps to achieve significant savings from our high utility costs. Available tax credits are often of little or no help to low-income individuals without tax liabilities. Such persons would be able to purchase solar energy devices or heat pumps only if they are provided low-interest loans.

Your Committee has amended this bill to require that:

(1) No loan shall be made to an applicant whose combined family gross annual income exceeds \$20,000.

(2) No loan shall exceed \$2,500.

Your Committee has further amended this bill by providing a lapsing clause.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2043-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2043-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 628-82          Finance on H.B. No. 1988-82

The purpose of this bill is to provide an annual deduction from gross income of \$5,000 for contributions to an individual housing account, a trust account, for savings toward the down payment on a first principal residence of a taxpayer.

The individual housing account (IHA) established by this bill would operate much like an individual retirement account now allowed by state and federal income tax law. A maximum of \$5,000 a year could be contributed to the account and such contribution

would be deductible from gross income while the interest thereon would be tax exempt. The total contribution to such an account would be for \$25,000 over a period of not more than ten years. The moneys from the account would have to be used for the purchase of a first principal residence or would be taxed at extraordinary rates to prevent other use. Once purchased the residence must be lived in for a three-year period or an additional tax would be placed on the seller.

Your Committee has amended this bill for clarity and has made non-substantive technical changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1988-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1988-82, H.D. 1.

Signed by all members of the Committee except Representative Wong.

SCRep. 629-82          Finance on H.B. No. 3051-82

The purpose of this bill is to provide second vice principal positions for high schools and combination high school/intermediate schools with enrollments that exceed 1,000 students; and third vice principal positions for high schools with enrollments that exceed 2,500 students.

Your Committee finds that additional vice principal positions are necessary to meet the critical needs of large high schools and intermediate/high schools which do not meet the enrollment criteria of 2,000 students to qualify for an additional vice principal position.

Your Committee agrees with the intent of this bill; however, your Committee has amended the bill to set forth in statute the general allocation formula for the allocation of additional vice principals.

Your Committee also amended the bill by deleting the appropriation which is to be provided for in the supplemental budget act.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3051-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3051-82, H.D. 2.

Signed by all members of the Committee except Representative Wong.

SCRep. 630-82          Finance on H.B. No. 3121-82

The purpose of this bill is to allocate among the four counties in the State the principal amount of bonds which may be issued under the federal Mortgage Subsidy Bond Tax Act of 1980.

Under federal law, the total principal amount of mortgage subsidy bonds which can be issued in the State of Hawaii in any calendar year cannot exceed \$200 million. One-half of this amount may be reserved for the Hawaii Housing Authority while the other half may be allocated to the counties that have the authority to issue mortgage revenue bonds.

Your Committee notes that the dollar amounts provided in this bill for each of the counties correspond to each county's percentage of the State's population as reported in the 1981 State of Hawaii Data Book, rounded to the nearest million.

Your Committee has amended this bill to change the allocation to the counties.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3121-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3121-82, H.D. 2.

Signed by all members of the Committee except Representative Wong.

SCRep. 631-82 Finance on H.B. No. 2965-82

Prior to December 29, 1981, the federal government assisted municipalities by providing grants of 75 per cent of the eligible cost for all three phases; planning, design, and construction of a wastewater treatment works. However, the Clean Water Act amendments of 1981 established new guidelines; two of which are (1) after December 29, 1981, only advances to the construction phase will be granted and (2) after October 1, 1984, the per cent of the grants will be 55 per cent of the total cost of the project.

The establishment of a revolving fund would enable the counties to draw, up to the limit of the federal government advancement, funds for the planning and design phases of the project prior to the construction. These funds are not available to the counties until the construction phase has started. For all projects that have completed the first two phases prior to October 1, 1984 and have requested advancements, the grant will have the 75 per cent rate.

All funds drawn from the revolving account will be reimbursed by the counties immediately upon receipt of advancement funds from the federal government and not later than four years from withdrawal.

Your Committee has amended this bill by deleting the words "not more than" on page 2, line 18, to lessen the restrictions on the Department of Health in granting the state share (10%) of the planning design costs.

Your Committee has further amended this bill by clarifying the lapsing clause of the revolving fund and by making changes of a non-substantive nature.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2965-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2965-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 632-82 Finance on H.B. No. 2907-82

The purpose of this bill is to add a new section to the Hawaii Revised Statutes which authorizes the Department of Social Services and Housing to provide personal care services to those persons whose physical condition requires them to have intermittent assistance with personal care services where there is no responsible person willing to volunteer such assistance.

Your Committee has received testimony in favor of the bill. Many disabled persons are forced into institutional care because they have no family or friends who can shelter and care for them. Many disabled adults who are now employed can continue to work if personal care services as described in this bill are provided to them. In summary, this bill is a measure that will prevent total dependency.

Your Committee heard testimony from the Department of Social Services and Housing that the uncertainty of future federal funding primarily with the unknown impact of possible federalization of the Medicaid program, that there be flexibility for the Department in the provision of this new service. Therefore, your Committee has amended page 1, line 11 by adding after the words "shall offer" the phrase "within the funds available".

The definition of "personal care services" has also been amended on page 1 to be more in consonance with the current federal guidelines for this service. The definition as originally stated was too broad and subject to interpretation.

Your Committee also noted that while Standing Committee Report Number 154-82, Re: H.B. 2907-82, H.D. 1, states that language has been added to restrict the Department of Social Services and Housing to make payments for personal care services at no more than 60 percent of the cost of the lowest level of care in a boarding or care home, this phrase was inadvertently omitted from page 2 of the bill. Therefore, the Committee has made amendments to add the words "the lowest level of care in" after the words "cost of" on line 5, page 2.

Since the Department of Social Services and Housing has testified that personal care services may be provided under the medical assistance program without application for a waiver from the Secretary of the Department of Health and Human Services, part (e) on page 2, after line 10, has been deleted.



In order to carry out the provisions of this bill, your Committee has changed Section 3 to add general fund appropriations in the amount of \$1,000,000 for fiscal year 1982-1983. Subsequent sections of the bill are accordingly renumbered.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2907-82, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 2907-82, H.D. 2.

Signed by all members of the Committee except Representatives Levin and Wong.

SCRep. 633-82 Finance on H.B. No. 2817-82

The purpose of this bill is to require registration of off-road vehicles to aid in the identification of such vehicles and in the recovery of stolen property.

Off-road vehicles such as dirt motorcycles, dune buggies, All Terrain Vehicles (3 wheels, ATV) and racing vehicles (cars included) are often targets of theft. Our present system does not require registration of these vehicles and information on them is often difficult to ascertain. This lack of information makes it impossible to identify and return these items to the legal owner. Registration of these vehicles would give each of the counties and the state as a whole, much needed information about the vehicles and their owners.

Your Committee on Finance has adopted changes recommended by the Honolulu Police Department as follows:

"The provisions of this part requiring the registration of motor vehicles shall not apply to United States military vehicles; nor shall it apply to special mobile [equipment] construction and demolition motorized vehicles, and motorized vehicles and [nor to] implements of farming and husbandry [temporarily drawn, moved, or otherwise propelled upon the], except where such motorized vehicles are designed for and do use public highways."

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2817-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2817-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 634-82 Finance on H.B. No. 2815-82 (Majority)

The purpose of this bill is to establish funds for highway beautification and disposing of abandoned vehicles.

This bill would authorize the counties to assess a 50 cent fee along with the motor vehicle registration fee for the purpose of highway beautification and the disposing of abandoned vehicles. Act 237, SLH 1976, inadvertently deleted the provisions for the 50 cent fee which had been originally enacted by Act 161, SLH 1972.

Your Committee on Finance has amended this bill to make technical changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2815-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2815-82, H.D. 1.

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

SCRep. 635-82 Finance on H.B. No. 2806-82

The purpose of this bill is to require the successful bidder for an in-bond contract at Honolulu International Airport to post a bond equal to six months of the highest minimum rental guarantee by amending Section 102-11 of the Hawaii Revised Statutes. The imposition



of conditions which increase the minimum bond guarantee is to give the Department of Transportation sufficient time to prepare for the award of major concession contracts and assure continued revenues between the termination of one contract and the award of another contract for a replacement concession.

Your Committee on Finance has amended this bill to make non-substantive changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2806-82, H.D. 1 as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2806-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 636-82      Finance on H.B. No. 2778-82

The purpose of this bill is to set forth in statutes the department of health's responsibility for certain related services and to identify more specifically the role of the department of health in providing these services, such as occupational therapy, physical therapy, medical diagnosis, and mental health.

Your Committee has amended section 1, line 6 and 7 to add the phrase "services for diagnostic or evaluative purposes." This amendment makes consistent the terminology throughout the bill.

Your Committee has also made non-substantive technical changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2778-82, H.D. 1 as amended herein and recommend that it pass Third Reading in the form attached hereto as H.B. No. 2778-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 637-82      Finance on H.B. No. 2674-82

The purpose of this bill is to amend Hawaii Revised Statutes Section 11-209 to raise the base amounts allowable in voluntary campaign spending limits from five to ten per cent per year.

These increases represent the inflation factor in computing voluntary campaign spending limits of political candidates for office, who agree to comply with the campaign spending limits.

Your Committee on Finance has amended this bill to make non-substantive and technical changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2674-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2674-82, H.D. 1.

Signed by all members of the Committee.

SCRep. 638-82      Finance on H.B. No. 2653-82

The purpose of this bill is to permit the Department of Land and Natural Resources to control, by rule, the harvesting of coral or seaweed from the waters of Kaneohe Bay.

Your Committee favors controlling the harvesting of coral and seaweed because of the gradual decline in abundance of the crops. However, your Committee favors that the control be statewide.

Your Committee has amended Section 1 of this bill to delete reference to "island of Oahu".

Your Committee requests that the department submit a progress report on this program.

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

2653-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2653-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 639-82      Finance on H.B. No. 2551-82

The purpose of this bill is to provide the University of Hawaii Board of Regents the authority to waive all tuition fees for any veteran currently enrolled as a student working toward a degree on any University of Hawaii campus provided the student is a resident of Hawaii and provided that the tuition waiver shall be applicable only to veterans no longer receiving "GI Bill" educational benefits.

It is well recognized that the "GI Bill" educational program since World War II has paid for itself countless times in the higher socio-economic contributions of those who made use of the program as contrasted to those who had no such equal educational opportunities.

This bill is directed at veterans of the Vietnam Conflict whose benefits are expiring under the federal educational support legislation but who need assistance to finish the degree programs they are currently pursuing. Tuition waivers while not sufficient to support students may make the difference for many veterans living on a limited income while trying to get a college degree.

Your Committee has amended this bill to correct technical mistakes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2551-82, as amended herein and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2551-82, H.D. 1.

Signed by all members of the Committee.

SCRep. 640-82      Finance on H.B. No. 2438-82

The purpose of this bill is to encourage the formation and successful operation within the State of development companies as defined by Title V of the Federal Small Business Investment Act of 1958.

The bill will encourage the formation of development companies by allowing them to incorporate in the State. Development companies will be able to obtain funds from the Federal Financing Bank. These funds will be loaned to small businesses for construction, conversion or expansion of businesses, as well as acquisition of land at an interest rate significantly below conventional rates. It is the purpose of this bill to stimulate the growth and expansion of small businesses.

Your Committee has amended this bill to correct technical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2438-82, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2438-82, H.D. 1.

Signed by all members of the Committee.

SCRep. 641-82      Water, Land Use, Development and Hawaiian Affairs and  
Agriculture on H.B. No. 2331-82

The purpose of this bill is to establish pre-qualifications for persons seeking to bid in an auction for state agricultural or pasture leases.

Your Committee has made technical amendments to the bill relating to the qualifications of bona fide farmers.

Your Committee on Water, Land Use, Development, and Hawaiian Affairs and your Committee on Agriculture are in accord with the intent and purpose of H.B. No. 2331-82, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 2331-82, H.D. 1.

Signed by all members of the Committees except Representatives Baker, Blair, Hirono, Morioka, Monahan and Narvaes.

SCRep. 642-82 Finance on H.B. No. 765

The purpose of this bill is to remove existing, outmoded, salary limitation provisions that apply to excluded employees.

Your Committee has amended this bill in its entirety. The purpose of the amendment is to amend section 2 of Act 7, First Special Session Laws of Hawaii 1981.

Act 7 allows for the establishment of a State deferred compensation plan for the benefit of public employees to defer a portion of their compensation to a future period of time. The authority to establish the plan is vested in a board of trustees.

The Board of Trustees for the State Deferred Compensation Plan was appointed in late September 1981. The Board became operational on October 28, 1981.

A \$30,000 appropriation for initial implementing costs for fiscal year 1981-82 was provided for under Act 7. There is concern that the initial implementation phase may not be completed by June 30, 1982. Additionally, there is concern that expenses may arise in maintaining the plan after it becomes operational in subsequent fiscal years and funds would not be readily available to meet such expenses. Consequently, a special revenue fund is proposed for this purpose.

The costs necessary to implement and administer the plan must be borne by the plan and its participants. Thus, the reimbursement of any sum expended from the appropriation made available should continue to be required. Your Committee agrees that the reimbursement made be paid back into the special revenue fund so that funds are readily available on an on-going basis to meet subsequent expenses that may arise in implementing and administering the plan.

Your Committee is in agreement that the establishment of a special revenue fund would be a more practical means of meeting expenses which may arise in administering and implementing the plan. Accordingly, the appropriation provision under Act 7 provides that it be paid into the special revenue fund.

Your Committee on Finance is in accord with the intent and purpose of H.B. 765, H.D. 1 as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 765, H.D. 2.

Signed by all members of the Committee.

SCRep. 643-82 Finance on H.B. No. 812

The purpose of this bill is to allocate responsibility for pupil transportation safety between the Department of Transportation and the Department of Education, to give each department the powers necessary for the implementation of the program and to appropriate funds necessary to carry out the purpose of the bill.

It is the intent of the Department of Transportation to assure that the pupil transportation program is in compliance with the motor carrier safety requirements on school buses and to require the Department of Education to establish rules and regulations for pupil passenger safety instruction.

Your Committee has amended this bill to delete appropriations for fiscal year 1981-82.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 812 as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 812, H.D. 1.

Signed by all members of the Committee.

SCRep. 644-82 Finance on H.B. No. 888

The purpose of this bill is to increase the cost of living bonus payments for persons who retired after June 30, 1970, but prior to July 1, 1975.

The proposed bonus increases would enable retirees to cope more adequately with their living expenses which have escalated sharply because of runaway inflation. One of inflation's severest effects is upon those who depend on a fixed or semi-fixed income such as the retirees. In June, 1980, the consumer price index in Honolulu was 227.5, up 127.5 from 100 for the base year 1967. Thus, purchasing power has been reduced by about \$10.00 each year since 1967. Estimated cost for the proposal ranges from \$1.3 to \$1.5 million.

Your Committee believes that the proposal and cost is justified because of inflationary reasons, and the historical practice of granting adjustment to retirees when granting increases to active employees.

Your Committee is in agreement that the proposed group of retirees should receive an additional fifty cents (\$.50) from the present level of one dollar (\$1.00) a month for each year of credited service. Your Committee does not support any other bonus payments.

Your Committee has amended this bill to limit the bonus increase to the 1970-75 retirees. Your Committee has also amended this bill to add an appropriation of \$375,000. Your Committee has further amended this bill to make technical substantive changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 888, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 888, H.D. 1.

Signed by all members of the Committee except Representative Wong.

SCRep. 645-82          Finance on H.B. No. 1949-82

The purpose of this bill is to assist sugar growers annually producing less than 3,000 tons of raw sugar by authorizing the Department of Agriculture to make supplemental direct loans to independent sugar growers to cover deficits in the repayment of production loans made by commercial lending institutions and to cover the amount required for production expenses which is not available from commercial lending institutions.

The State has always been concerned with the plight of the sugar industry and its effect on our economy. This bill seeks to assist independent sugar growers by authorizing supplemental direct loans to cover deficits arising during this time period in which local sugar producers are subject to insufficient national protection from sugar imports subsidized by foreign governments. This bill also appropriates \$2,000,000 for such loans.

Your Committee has amended this bill by deleting "fiscal year 1982-1983" from Section 2.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1949-82, H.D. 1 as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1949-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 646-82          Finance on H.B. No. 1974-82

The purpose of this bill is to provide for the purchase of products and services by public agencies from qualified rehabilitation facilities serving the handicapped.

Your Committee agrees that this bill will provide employment opportunities for handicapped individuals by acquiring an expanded and constant market for their products and services through their respective rehabilitation workshops and facilities and thereby minimizing their dependence upon public assistance and costly institutionalization.

There are thirteen rehabilitation workshops throughout the State of Hawaii (not including the state facility for the blind) which operate programs that currently enroll a total of 1,027 handicapped persons monthly in employment and rehabilitation related activities. These workshops train and employ handicapped persons through jobs created by the production of commodities or rendering of services for sale. Every workshop in the State relies on having work opportunities available for the increasing number of disabled persons enrolled in their programs.

Your Committee agrees that these workshops would provide meaningful work opportunities.

This bill would in effect change the state statute which limits purchasing of certain commodities by state agencies.

Your Committee has amended this bill to make nonsubstantive changes and to correct drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1974-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1974-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 647-82      Finance on H.B. No. 77

The purpose of this bill is to amend the Hawaii Revised Statutes by adding a new chapter to authorize and establish guidelines and procedures for the granting of leases for research and commercial ocean activities within state marine waters and submerged lands, and to guarantee property rights and protection for any such activities approved under this bill.

Your Committee finds that Article XI of the Hawaii State Constitution clearly mandates the conservation, protection, and development of marine resources in the State. This bill proposes to establish a means of leasing ocean and marine resources and is viewed as a viable and effective means to enhance fulfillment of the constitutional mandate.

Research, development, and demonstration of viable energy, aquaculture, mariculture and ocean related technologies are progressing rapidly in the State. Prospects for private commercial investment for ocean thermal energy conversion, manganese nodules, floating and submerged sea-farming operations and related ocean resources are a reality.

Your Committee recognizes that the full extent of the oceanic jurisdiction is in dispute between the state and federal governments. Until the dispute is resolved, the entrepreneurs can meet the ocean leasing requirements of both state and federal governments. Issuance of a lease is of great importance to the entrepreneurs, who will need a lease in order to raise private capital to conduct these activities. Even though these ocean and marine resource activities may be several years away, the issuance of ocean and marine resources lease is a critical step in establishing mariculture, OTEC, marine mining, and other ocean activities.

Your Committee has amended this bill by deleting all of "Part III. Administration and Enforcement," and added a completely new "Part III. Ocean Leasing Generally; Procedures; Provisions." The new Part III makes it clear that the proposed chapter does not require that all ocean activities obtain leases nor does it require that all marine activities obtain Conservation District Use Permits. However, mariculture, marine mining, or OTEC operations must obtain a Conservation District Use Permit.

Your Committee has also amended the bill by adding a completely new "Part IV. Administration and Enforcement." The new Part IV provides clear and unambiguous statements relating to violations and penalties for violations of the purposes of this chapter.

Your Committee has further amended this bill by expanding public notice to three separate days and has made other technical, nonsubstantive amendments to the bill for purpose of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 77, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 77, H.D. 3.

Signed by all members of the Committee.

SCRep. 648-82      Finance on H.B. No. 2360-82

The purpose of this bill is to establish a unit in the Department of Taxation to conduct a statewide program for the investigation and prosecution of tax fraud and other violations

of the tax laws on a pilot project.

Your Committee finds that due to lack of sufficient enforcement personnel, the tax fraud cases are neither investigated nor prosecuted by the State. The tax fraud unit established by this bill will investigate and prosecute persons who have evaded the payment of taxes on income gains derived from illegal activities.

Your Committee has amended this bill by deleting "an attorney" from the staff and to limit investigation and prosecution to income taxes.

Your Committee has also amended this bill by adding a new Section 3 to require the unit to submit a progress report.

Subsequent sections of this bill are renumbered.

Your Committee has further amended this bill to provide for an appropriation of \$100,000.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2360-82, H.D. 1 as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2360-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 649-82 Finance on H.B. No. 2940-82

The purpose of this bill is to aid sugar companies during unprofitable years and ensure the continued viability of the sugar industry in the State by establishing a sugar stabilization fund to supplement the assistance provided under federal laws for producers of sugar. It also establishes a commission to administer the sugar stabilization fund. This bill appropriates funds and assesses each qualified sugar plantation or producer, as defined in this bill, \$5 per ton of sugar produced annually by that plantation or producer for payment into the fund.

Your Committee has amended this bill generally: (1) by clarifying the establishment of a Sugar Stabilization Commission; (2) by deleting provisions relating to "withdrawals"; (3) by clarifying the provisions relating to the sugar stabilization fund; (4) by providing for a \$1 appropriation; and (5) by making other technical and nonsubstantive amendments.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2940-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2940-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 650-82 Finance on H.B. No. 1948-82

The purpose of this bill is to amend section 155-9, Hawaii Revised Statutes to increase the maximum amounts on various classes of farm loans as follows:

- (1) Class A loans for farm ownership and improvement from \$100,000 to \$200,000.
- (2) Class B loans for soil and water conservation purposes: to individual farmers from \$35,000 to \$50,000; and to farm associations from \$200,000 to \$300,000.
- (3) Class C loans for farm operating expenses from \$100,000 to \$200,000.
- (4) Class E loans for farmers' cooperatives and corporations for: capital improvement purchases from \$250,000 to \$500,000; and operating expenses from \$150,000 to \$300,000.
- (5) Class F loans for initial loans to new farmer programs from \$75,000 to \$100,000.

This bill provides that facility loans shall be for an amount not to exceed \$500,000 or eighty per cent of the cost of the project, whichever is the lesser, and that initial loans to new farmers shall not exceed \$100,000 or 85 per cent of the cost of the project.

Your Committee has amended this bill to make technical nonsubstantive changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1948-82,

H.D. 1 and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1948-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 651-82 Finance on H.B. No. 3143-82

The purpose of this bill is to clarify certain provisions relating to the Hawaii Community Development Authority's (HCDA) power and rules, and to provide HCDA with specific authorization for the implementation of the Kaka'ako Community Development District Plan and rules.

Your Committee received testimony in favor of this bill from the Chairman of HCDA. Your Committee finds that the bill (1) authorizes HCDA to enforce the community development provisions of Chapter 206E, Hawaii Revised Statutes and provides a penalty for violations of these provisions; (2) authorizes HCDA to provide relocation assistance to persons and businesses displaced by governmental actions within the district and requires HCDA to promulgate rules relating to relocation assistance; (3) clarifies the definition of "public facilities" in Chapter 206E, Hawaii Revised Statutes, by specifying additional types of public facilities which are identified in the Kaka'ako Community Development District Plan; (4) authorizes HCDA to issue revenue bonds for financing district-wide infrastructure improvements, to establish improvement districts, and to formulate its own assessment rules under Chapter 91, Hawaii Revised Statutes; (5) allow HCDA to engage in construction activities outside of the Kaka'ako district if the construction relates to infrastructure development or residential or business relocation activities; and (6) authorizes HCDA to issue taxable revenue bonds and administer reserved housing loan programs to assist qualified purchasers of reserved housing units; and (7) authorize HCDA to issue and sell up to \$45,000,000 of revenue bonds for the purpose of undertaking and maintaining any of the district-wide improvement program described in Section 206E-6.

Your Committee upon further consideration has made the following amendments to the bill:

(1) Further clarified the language regarding HCDA's authorization to issue and sell revenue bonds for its improvement district program. The technical language changes were made in consultation with the State's bond counsel.

(2) Added paragraph (f) to Section 206E-6, to require the consent of the City Council prior to undertaking an improvement district program. This was also recommended by the bond counsel.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3143-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3143-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 652-82 Finance on H.B. No. 2742-82

The purpose of this bill is to provide a \$25.00 income tax credit to resident taxpayers for the purchase of an approved child passenger restraint system.

Your Committee recognizes the importance of child restraint systems for children riding in motor vehicles. An economic incentive such as a tax credit is seen as a positive incentive to encourage the use of child restraint systems.

Your Committee on Finance recommends that the credit be limited to new systems and the bill is accordingly amended.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2742-82, as amended herein, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Fukunaga, G. Hagino and Okamura.



SCRep. 653-82 Finance on H.B. No. 2449-82 (Majority)

The purposes of this bill are: (1) to conform conditions of eligibility for the State's General Assistance Program with conditions of eligibility under comparable federally funded financial assistance programs; (2) to require that families must first establish eligibility for assistance for federal programs; (3) to clarify that only a licensed physician whose specialty is in psychiatry shall determine whether a person is mentally impaired, and (4) to determine ineligibility of an assistance unit for general assistance if an adult in the assistance unit fails to cooperate with any appropriate state agency for vocational rehabilitation services after being referred for services.

Your Committee has amended this bill to clarify the conditions of general assistance by stating when the adult member is disqualified for not meeting the work requirement, the assistance unit shall not be disqualified if the assistance unit was formed after the failure to meet the work requirement occurred.

Your Committee has also amended this bill to correct errors in drafting and to make other nonsubstantive changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2449-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2449-82, H.D. 2.

Signed by all members of the Committee.  
(Representatives Kobayashi and Levin did not concur.)

SCRep. 654-82 Finance on H.B. No. 2850-82

The purpose of this bill is to provide civil service status to plant quarantine inspectors who are in the pre-departure inspection program.

Inspectors hired after May 1978, did not have the benefit of civil service status. This bill will eliminate disparities and give all inspectors in the program regular civil service status, the opportunity for intra-departmental transfer, job security, and create a high morale in the department.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2850-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 655-82 Finance on H.B. No. 1971-82

The purpose of this bill is to appropriate moneys to the Office of Hawaiian Affairs (OHA) so that that agency may effectively carry out its management responsibilities imposed by law.

Your Committee, after thorough examination of the agency's request for funds for fiscal 1983 and after hearing the agency's presentation of the request, finds that:

(1) OHA's budget request incorporates the idea that the State (General Fund) should pay for all of that agency's "non-program" costs--that "administrative" costs are not the responsibility of the agency's trust fund.

The rationale for this idea is that because the State created the agency, it should bear the financial burden.

It is the opinion of your Committee that the basic thesis for the idea should not be accepted. In the absence of any legal authority or mandate, and unless it can be shown that the administrative expenditures referred to do not benefit native Hawaiians, OHA should be treated like any other like agency created by the State.

(2) There are uncertainties regarding the extent of and location of ceded lands; legal uncertainties regarding the foregoing; uncertainties regarding the status of ceded lands and the revenues derived therefrom; and uncertainties regarding the amount of revenues OHA will receive because of uncertainties mentioned.

In view of these factors, a large degree of vagueness exists as to the revenue

picture in the near and distant future. This in turn makes it difficult for your Committee and the State to place the agency's present budget request in proper perspective. This is especially true because of their previous claim that the State should match the agency's expenditures for native Hawaiians with a like amount for non-native Hawaiians for which that agency assumes no financial responsibility. The State then is at the mercy of the agency's ability to fund its native Hawaiian program.

In addition, the present claim of non-responsibility for administrative expenses, if accepted, would exacerbate the problem of "who is leading whom" in financing that agency.

Your Committee has recommended in a separate measure that the uncertainties be resolved and has recommended an appropriation of \$100,000 for this purpose. Until the results of the study are received next year, your Committee recommends a "go slow" approach to large expansions in OHA's budget.

(3) A major uncertainty regarding OHA's budget request is in the area of needs of Hawaiians to be addressed by the agency during fiscal 1983. Large amounts are requested for practically all purposes because of "workload" or expansion of programs. At the same time, their request includes \$150,000 to conduct a "short range needs assessment." This assessment is to be the basis upon which the agency is to plan its programs to meet its responsibilities to its clientele. The plan for the proposed assessment indicates that much thought and effort has been expended in its development, and that the results of the assessment would permit more definitive program planning on the part of OHA and the State.

Your Committee is of the opinion that the assessment should be encouraged, and that moneys should be provided so that it will be made. Until such time as the assessment results are available and more definitive program plans are developed, your Committee generally recommends a "current service" approach to OHA's budget. However, in recognition that certain immediate budget increases must be made, your Committee also recommends some exceptions to the general rule mentioned.

Your Committee recommends the following:

- (1) The appropriation be based on a matching basis;
- (2) A basic "current service" budget, including an 8-1/2% inflation factor, be approved;
- (3) Two urgently needed positions, one each in OHA 100 and OHA 101, be approved; and
- (4) Moneys for a proposed Short Range Needs Assessment be approved.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1971-82, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 656-82

Finance on H.B. No. 2451-82

The purpose of this bill is to conform conditions in the amount of liquid assets disregarded for the State's General Assistance Program with conditions in the amount of liquid assets disregarded under federally funded financial assistance programs.

This bill will prevent welfare recipients who are denied financial assistance benefits under the Aid to Families with Dependent Children (AFDC) category from being transferred to the General Assistance (GA) category on technicality. The bill will conform conditions of eligibility for financial assistance under the State GA program to requirements under comparable federal public assistance programs. The GA, entirely state funded, is intended to serve those families who are not categorically eligible for federal welfare programs. It was never intended to cover families who are eligible for federal programs such as AFDC. Income eligibility regulations for GA have either paralleled or been more restrictive than for federal programs. However, the 1981 Omnibus Reconciliation Act tightened income eligibility requirements for AFDC effective October 1, 1981, while the GA program has now become more liberal in some respects. As a result, families moving off AFDC because of family income and resources exceeding federal limits and for other technical reasons will be transferred to the GA program. This bill will provide

equal treatment to AFDC and GA families and prevent families whose liquid assets exceed \$1,000 from being transferred to the GA category.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2451-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 657-82 Finance on H.B. No. 1642

The purpose of this bill is to increase the present limit on Airport Special Facility Revenue Bonds to \$50 million, and to provide that no funds be expended on non-public air facilities, by amending Section 261-52 of the Hawaii Revised Statutes.

Proceeds from the sale of these bonds would be used to finance specific airport capital improvements. The increase on the limit on the Airport Special Facility Revenue Bonds from \$25 million to \$50 million is critical to the on-going development program at Honolulu International Airport as well as other public air facilities in the State.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1642, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 658-82 Finance on H.B. No. 2316-82

The purpose of this bill is to increase the number of circuit court judges from fifteen to seventeen in the first circuit and from two to three in the second circuit; and to increase the number of district court judges from twelve to fourteen in the first circuit, from two to three in the second circuit, and from one to two in the fifth circuit. The additional positions are necessary due to growing work loads and mounting backlogs in these courts.

Statistics today generally indicate a marked increase in the demand for judicial services. While this trend can be attributed to a number of factors --- increased crime, the rising litigiousness among the general populus, the increasing number of police, prosecutors, and the Bar --- the fact remains that the volatile contemporary demands being placed on the courts are exacerbating their perennial problems. For example, court congestion, the inability to handle case volume at a particular point in time, and court delay, the inordinate time required to finally resolve cases, become more difficult to adequately resolve.

The most expeditious and direct means to resolve the current problem of congestion, backlog, and delay is to increase the number of persons who hear and decide cases in the courts, i.e., the judges. Hopefully, this solution would increase the overall effectiveness of the judiciary system, increase the pace of litigation, improve the public image of the courts, and make them more accessible to the general public.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2316-82, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 659-82 Finance on H.B. No. 2637-82

The purpose of this bill is to repeal Section 266-22, Hawaii Revised Statutes, which requires all costs of maintaining the fireboat to be paid out of the department of transportation harbor special funds.

Currently, under the present statute, the Department of Transportation is required to pay over \$700,000 annually in operating maintenance costs for the city and county of Honolulu owned fireboat. The repeal proposed by this bill would greatly reduce state harbor expenditures and such a reduction would be reflected in the rates charged for port facility use.

The continued operation of the fireboat is essential to state-wide safety, as it provides, not only harbor protection, but also responds to emergency alarms and provides rescue

and retrieval operations.

In order to insure the continuance of fireboat operations, the transfer of responsibility costs should not take place until suitable funding or different alternatives for protection are found. Therefore the effective date of this bill is June 30, 1983, to allow time for these alternatives to be explored.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2637-82, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 660-82          Finance on H.B. No. 3109-82

The purpose of this bill is to create the Hawaii Environmental Disclosure Law.

Public awareness of proposed actions of large stockholders of corporations with land-holdings which might affect the quality of the environment is the primary objective of the environmental impact assessment process. Decisions by these stockholders regarding the use of these lands might have a direct impact on the quality of the State's environment. Public knowledge of activities involving these land holdings, such as stock transfers, is important in protecting the unique environment of the State.

This bill will require an entity holding ten percent or more stock in a Hawaii corporation to file a disclosure statement with the Office of Environmental Quality Control prior to the purchase of five percent or more additional stock in the corporation during any twelve month period.

This statement will include a description of the entity, its business activities, financial statements, history of involvement in past environmental proceedings, and a detailed explanation of the intentions of the entity which might have an affect on the environment. Should the entity refuse to file a statement or participate according to the law, the Attorney General may be requested to take action which will prohibit the purchase of the stock.

The Office of Environmental Quality Control will work in cooperation with the State Attorney General for the implementation and administration of the law.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3109-82, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Fukunaga, G. Hagino and Okamura.

SCRep. 661-82          Finance on H.B. No. 2572-82

The purpose of this bill is to provide an agricultural training program on the island of Molokai by providing for the continuation of the Molokai Institute of Agriculture.

Federal funds supporting the Molokai Institute of Agriculture, which was established in 1980, will no longer be available as a result of federal budget cuts. The institute was to have been terminated on Decemter 31, 1981 because of a lack of funding but is currently being continued on a severely curtailed funding level.

The closing of a pineapple company on Molokai in 1975 left many people without jobs. Your Committee also finds that Molokai offers significant potential for the growth and development of diversified agriculture. However, many of the people displaced by the closing of the pineapple company need education and training in farming practices in order for them to successfully pursue a career in diversified agriculture.

This bill appropriates \$78,153 to support the development of an agricultural training program and provide education in farming practices on the island of Molokai.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2572-82 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Wong.

SCRep. 662-82 Finance on H.B. No. 2049-82

The purpose of this bill is to appropriate funds for the salary of the director of the office of Environmental Quality Control and for salary increases for employees of that office.

Your Committee finds that it would be in the best interest of the State to ensure the existence of an environmental review system that provides appropriate consideration to environmental concerns in decision making along with economic and technical considerations. Necessary funding for a director will ensure that the Office of Environmental Quality Control can continue to effectively meet its legislatively mandated functions.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2049-82, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 663-82 Finance on H.B. No. 1970-82

The purpose of this bill is to assist the State in resolving the many issues relating to ceded lands. This is to be accomplished by completing the ceded land inventory; studying the legal and fiscal issues relating to use of ceded lands; and studying the use and distribution of revenues generated from ceded lands.

Your Committee finds that the many uncertainties surrounding the matter of ceded lands and the disposition of revenues generated by the use of ceded lands can best be resolved by ascertaining what and where ceded lands exist, the legal and fiscal problems which may exist or arise from their use, and the effect on all parties concerned with the use and distribution of revenues generated from ceded lands.

Your Committee approves the \$100,000 appropriation to expedite through competent and concentrated effort issues related to ceded lands.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1979-82, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 664-82 Finance on H.B. No. 2391-82

The purpose of this bill is to establish a demonstration home care services project from January 1, 1983 through June 30, 1985 within the Department of Social Services and Housing to study the adequacy and cost effectiveness of providing coordinated home care services to individuals in order to prevent costly and often inappropriate institutionalization. The project will be administered to a sample group of two hundred individuals who are eligible for medical assistance, medically eligible for placement in a hospital or residential health care facility, and able to reside in their home or the home of another adult. Individuals must be certified by a physician as able to remain in a home environment. The cost of services provided shall not exceed a maximum of 75 per cent of the current medical reimbursement rate for the level of health care for which the applicant is medically eligible as prescribed by the physician.

Your Committee finds that there is a need for the development of community-based alternatives to institutionalization. Many health care providers and consumers throughout the State recognize that our present provision of home care services is inadequate in meeting the growing needs of individuals who risk institutionalization due to illness, incapacity, or the absence of a caretaker/relative. Many families are highly stressed because of the lack of support services available to them for the care of their elderly or disabled relative. Your Committee favors the establishment of the home care services project. It will give the State good and needed information about the cost of home care versus institutional care and about individual preference.

The basic concept of the home care services demonstration project proposed by this bill is modeled after the "Nursing Home Without Walls" program in New York. The proposed Hawaii legislation has informally become known as the "Nursing Home Without Walls Project".

The focus of this demonstration project established by this bill is to evaluate the

implementation of a coordinated home care services program for the individual in his home environment.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2391-82, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 665-82          Finance on H.B. No. 2931-82

The purpose of this bill is to amend the section of the workers' compensation law relating to an employer's limited liability for an employee who is concurrently engaged in more than one employment or job (section 386-51.5, Hawaii Revised Statutes) by deleting the exception clause therein which makes the employer, in whose employment the injury occurred, solely liable for benefits for disability rated as a percentage of total impairment of physical or mental function of the whole man (a form of permanent partial disability).

The amendment made by this bill is recommended by the Workers' Compensation Program Commission in its January, 1982 report to the Governor and the Legislature. The Commission had been established by Act 217, Session Laws of Hawaii 1980, to comprehensively review Hawaii's workers' compensation law.

Your Committee finds that an employer's liability should be determined in the same manner for both scheduled and nonscheduled injuries in cases involving concurrent employment. Because the employee's benefits are based on wages earned at more than one employment, it is only fair that the employer in whose employ the injury occurred be held liable only for the benefits directly attributable to that employment regardless of the type of injury. The balance of the benefits should be picked up by the special fund.

Your Committee on Finance is in accord with the intent and purpose of H.B. 2931-82 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 666-82          Finance on H.B. No. 3067-82

The purpose of this bill is to appropriate monies to study and evaluate the possibility of expanding the private sector ship repair capability in Hawaii.

Your Committee finds that there is much merit in the idea that there is an opportunity for the State to attract a large amount of ship repair business if there is more repair capability. Your Committee is of the opinion that our expenditure of the modest amount proposed by this bill could result in vast economic benefit to the State.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 3067-82 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Nakasato.

SCRep. 667-82          Finance on H.B. No. 2261-82

The purpose of this bill is to support the development of Hawaii's agricultural industry by appropriating funds to conduct a study to determine the feasibility of establishing a farmer's market in Honolulu.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2261-82, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Fukunaga, G. Hagino and Okamura.

SCRep. 668-82 Finance on S.B. No. 2197-82

The purpose of this bill is to provide funds for the implementation of the 1981-83 collective bargaining agreement covering the Hawaii Fire Fighters Association, Unit 11.

Your Committee finds that the award by arbitration panel, pursuant to section 89-11, Hawaii Revised Statutes, is in order. The appropriations necessary to meet the cost items in the arbitration award are as follows: fiscal year 1981-82, \$152,929 and fiscal year 1982-83, \$887,101. The pay raises are effective on March 1, 1982 and October 1, 1982, and increased meal benefits are effective July 1, 1982. To provide for the orderly implementation of the arbitration award, your Committee approves the recommendation of the governor for the immediate passage of this bill.

Your Committee approved the companion measure H.B. No. 2159-82 on March 2, 1982, after public hearing on February 22, 1982. Therefore, your Committee finds this bill in order.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2197-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 669-82 Energy, Ecology and Environmental Protection on H.R. No. 14

The purpose of this resolution is to request the Department of Health to amend present regulations or adopt new regulations to include the monitoring of discharges generated by geothermal activities.

Your Committee fully appreciates the need to develop and commercialize such alternate energy resources as geothermal energy. At the same time, however, your Committee recognizes the responsibility of the State to maintain a safe and healthy environment for its citizens.

Because potentially hazardous contaminants may be generated by the geothermal activities in the Puna area of the island of Hawaii, your Committee believes that it would be in the best interest of the State to initiate procedures to monitor these geothermal-generated discharges.

H.R. No. 14 has been amended as follows:

1. In paragraph 4, the word "promises" has been replaced by the words "may prove."
2. In paragraph 5, the word "airborne" has been deleted; additionally, the words "now, therefore," have been replaced by the word "and."
3. Paragraphs 6 and 7 have been deleted in their entirety.
4. A new "WHEREAS" clause has been added referencing a letter from the Director of Health in which the director "strongly suggests that present regulations be amended or a new regulation be adopted to include the monitoring of discharges generated by geothermal activities."
5. Four new "BE IT RESOLVED" clauses have been included in the resolution.
6. The first "BE IT RESOLVED" clause requests the Department of Health to establish procedures to monitor geothermal projects for potentially hazardous substances including, but not limited to: all sulphur compounds, radon and radon daughters, mercury, arsenic, all silica compounds, and other metal vapors.
7. The second "BE IT RESOLVED" clause requests that the department's monitoring program include:
  - (a) Monitoring of emissions from all emission points associated with the geothermal facility.
  - (b) A baseline study to determine existing background concentrations



of primary pollutants known or anticipated from geothermal projects.

- (c) Establishment of preliminary standards for emission levels for geothermal projects (possibly adopting California standards) including standards for long-term exposure to geothermal emissions.
- (d) A mechanism for sampling of water catchment systems in the vicinity of the well both up wind and down wind.

8. The third "BE IT RESOLVED" clause requests the Director of Health to report on the department's efforts and findings to the Legislature twenty days prior to the convening of the 1983 Regular Session.

9. The fourth "BE IT RESOLVED" clause requests that certified copies of the resolution be transmitted to the Director of Health, the Mayor and Council of the County of Hawaii, the Leilani Estates Community Association, the Volcano Community Association, and the Puna Council.

Your Committee on Energy, Ecology and Environmental Protection concurs with the intent and purpose of H.R. No. 14, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 14, H.D. 1.

Signed by all members of the Committee except Representative Sakamoto.

SCRep. 670-82 Finance on S.B. No. 2197-82

The purpose of this bill is to provide funds for the implementation of the 1981-83 collective bargaining agreement covering the Hawaii Fire Fighters Association, Unit 11.

Your Committee finds that the award by arbitration panel, pursuant to section 89-11, Hawaii Revised Statutes, is in order. The appropriations necessary to meet the cost items in the arbitration award are as follows: fiscal year 1981-82, \$152,929 and fiscal year 1982-83, \$887,101. The pay raises are effective on March 1, 1982 and October 1, 1982, and increased meal benefits are effective July 1, 1982. To provide for the orderly implementation of the arbitration award, your Committee approves the recommendation of the governor for the immediate passage of this bill.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2197-82 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Wong.

SCRep. 671-82 Employment Opportunities and Labor Relations on H.R. No. 60

The purpose of this resolution is to request the Hawaii VISTA Grant Program with the assistance of the Advisory Commission on Manpower and Full Employment to study the feasibility of a state volunteer program, similar to the national VISTA program. Such a program would meet community needs and also provide productive and rewarding volunteer assignments and related training for individuals willing to volunteer their services for one or more years in the State in exchange for basic subsistence allowance.

The study should include an examination and analysis of federal laws, regulations and policies that relate to the VISTA program, chapter 90 HRS (State Policy Concerning Utilization of Volunteer Services). The study should also make recommendations for appropriate legislation which would enable the establishment of such a State Volunteer Program. Finally, the study should examine specific issues as the skills that volunteers should have, who will receive the volunteer services, administration of such a program, extent of benefits volunteers may receive and other matters that the study deems relevant.

Your Committee on Employment Opportunities and Labor Relations concurs with the intent and purpose of H.R. No. 60 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 672-82      Housing on S.B. No. 2866-82

The purpose of this bill is to allow the Hawaii Housing Authority to issue \$75 million in taxable revenue bonds to finance the acquisition of the fee title to leasehold properties converted under the Land Reform Act.

The Land Reform Act enacted in 1967 allows the Hawaii Housing Authority (HHA) to condemn residential leasehold property for conversion to fee simple ownership. Lessees wishing to acquire fee simple title to their residential properties are currently experiencing difficulties in obtaining financing at reasonable rates. In addition, lessees who have already converted their properties by entering into agreements of sale with their lessors will be facing the prospect of unavailable financing when their balloon payments become due in a few years. Local lending institutions are not unwilling to make these loans, rather, they simply do not have adequate capital resources available.

This bill would alleviate this financing problem by establishing a Fee Title Acquisition Loan Program structured like the Hula Mae program. The Authority would be empowered to issue taxable securities, the proceeds of which will purchase newly originated fee title acquisition mortgage loans from private lending institutions. The HHA will thus serve as a conduit between local lenders who will originate the loans and the national capital markets which will provide the funds to HHA for the purchase of the new loans. Local lenders will in this manner have access to secondary mortgage market funds not otherwise accessible to them.

Your Committee wishes to emphasize that the Fee Title Acquisition Loan Program will not have any impact on the State's financing abilities nor cost the State of Hawaii any money. All expenses incurred will be paid from program revenues or bond proceeds. In addition, since HHA will be issuing taxable, rather than tax-exempt securities, there will be little effect on the State's ability to raise money from the sale of general obligation or revenue bonds because the investors in the two markets form two distinct groups.

Your Committee believes that the Legislature should reaffirm its commitment to the Land Reform Act by the establishment of a mechanism that would increase resources available to local lenders and thereby assist lessees in financing the acquisition of fee title to their residential properties.

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 2866-82, 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. 673-82      Consumer Protection and Commerce and Transportation on  
S.B. No. 2261-82 (Majority)

The purpose of this bill is to restrict the Department of Transportation from entering into more than one contract for the sale and delivery of in-bond merchandise at Honolulu International Airport.

Presently, the Department may not enter into more than two contracts for the sale and delivery of in-bond merchandise at Honolulu International Airport until June 30, 1982.

The visitor industry together with related commerce accounts for a significant portion of the State's revenues each year. Virtually all visitors to the islands arrive and depart by air and therefore the maintenance of a functional, well-planned and well-maintained airport is vital to the interests of the State.

A substantial amount of revenue for the operation of the airport comes from the sale of in-bond or duty-free merchandise to foreign visitors. Your Committees heard testimony indicating that the opportunity to purchase duty-free merchandise is in itself an attraction for many overseas tourists.

On January 1, 1981, the Department of Transportation entered into a seven and one-half year contract with the present duty-free operator and into a similar seven and one-half year contract with a second competing operation. Less than nine months later, the second duty-free operation defaulted its contract because of its inability to meet its financial guarantees to the Department.

This bill permits the Department of Transportation to enter into no more than the one contract for duty-free operations at Honolulu International Airport and requires the Department to prevent other persons from delivering in-bond merchandise to the airport, except as cargo, to protect the State while not interfering with or burdening foreign commerce.

This bill also deletes the repealing provision of Act 243, Session Laws of Hawaii 1981, thus making the one-contractor plan permanent.

Your Committees heard testimony that it is necessary to continue to limit the competitive pressures and strains on the duty-free business at Honolulu International Airport in order to maximize revenues obtained from duty-free concessions.

Your Committees also find that in light of the nature of the business and actual experience, the two-operation concept has not proven to be a realistic option, and therefore agree with the intent of the bill.

Your Committees recognize that it is granting an economic advantage to the duty-free operation at the Honolulu International Airport. However, your Committees make it clear that its intent in doing so is to protect the State's interests in revenues, tourism, and the orderly administration and operation of the Honolulu International Airport. In all present and future dealings with the duty-free operations, it is your Committees' understanding that the State will receive the maximum consideration for this protection conferred. Additionally, your Committees have relied on testimony received from the Attorney General's Office that the position taken by this bill is legally defensible under antitrust law.

In reviewing the current draft of this bill, your Committees note that the department is asked to develop and implement guidelines which "shall include guidelines relating to the department's review of the reasonableness of [contractors'] contractor's price schedules . . ." To explain the meaning of this requirement, several persons who testified on the bill referred to the comments of the Deputy Attorney General which incorporated, by reference, her opinion dated December 29, 1981. The Deputy Attorney General's memorandum, at pages 18 to 20, notes that the State reviews the prices charged for duty-free goods but does not determine the price to be charged.

Properly understood, the mandate is not that prices be reviewed, but instead that guidelines be established "relating to the department's review of the reasonableness of [contractors'] contractor's price schedules . . ." It is conceivable that, after consultation with the Department of the Attorney General, the Department of Transportation will adopt guidelines which specifically prohibit or limit the review of prices or any action by the State to influence prices. This might be done on the advice of the Attorney General, to obviate, for example, any conflict with the Commerce Clause.

In summary, it is important to note that the mandate is to "actively supervise" and to "implement guidelines" in certain specified areas. In most instances the guidelines will provide specifics of the "active supervision" requirement, but they should also be used to circumscribe certain conduct which is inappropriate. There is no legislative mandate to review prices if such review is not appropriate.

Your Committees on Consumer Protection and Commerce and Transportation are in accord with the intent and purpose of S.B. No. 2261-82, S.D. 2, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Medeiros.  
(Representatives Baker, de Heer, D. Hagino and Hirono did not concur.)

SCRep. 674-82      Education and Public Employment and Government Operations  
on S.B. No. 2353-82

Your Committees find that job sharing, which would allow two half-time positions in place of one full-time position, is an innovation which will increase the available employment options so that people may have the opportunity to be employed on the basis of their financial and other needs, without, perhaps, the necessity of being employed on a full-time basis.

The merits of job sharing have been cited in reports by the Legislative Auditor, Board of Education, and the Department of Personnel Services. Indeed, job sharing in the Department of Education has resulted in improved productivity and quality of work,

employee job satisfaction, and cost savings.

Your Committees further find that the Department of Education pilot project has been effective in achieving the objectives of the job sharing program; therefore, a job sharing pilot project should be established for librarians within the public library system.

Your Committees have amended this bill in the following manner:

- (1) Specifically limited the program to full-time librarians.
- (2) Established the pilot project for two years in order to provide the Legislative Auditor ample opportunity to monitor and evaluate the pilot project.
- (3) Limited the program to fifty full-time permanent positions.
- (4) Limited the job sharing team to a full-time permanent employee and a new hire.
- (5) Deleted language regarding the division of benefits between job sharers since both job sharing employees would be entitled to at least one-half of each employee benefit accorded to full-time employees.
- (6) Provided that the person hired for a job sharing position possess the minimum requirements of the full-time position.

Your Committees have also amended the bill by requiring the Legislative Auditor to submit a status report only in 1984 and by making grammatical and technical changes which have no substantive effect.

Your Committees on Education and Public Employment and Government Operations are in accord with the intent and purposes of S.B. No. 2353-82, S.D. 1, as amended herein and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2353-82, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees Ige, Kiyabu and Nakasato.

SCRep. 675-82      Water, Land Use, Development and Hawaiian Affairs on S.B.  
No. 2709-82

The purpose of the bill is to update existing statutes to encourage the formation and operation of development companies as defined by Title V of the federal Small Business Investment Act of 1958, as amended.

Your Committee finds that furthering the growth of small businesses in the State will result in increased employment opportunities. Currently, the Department of Planning and Economic Development is authorized by statute to extend loans to local development companies only under Section 502 of the federal Small Business Investment Act. It is the belief of your Committee that broadening the scope of the current law to include loans to local development companies under both Sections 502 and 503 of Title V of the federal Small Business Investment Act of 1958, as amended, would stimulate the growth of small businesses.

Your Committee received testimony from the departments of Taxation and of Planning and Economic Development that they did not object to the passage of this bill.

Your Committee on Water, Land Use Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 2709-82, 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. 676-82      Water, Land Use, Development and Hawaiian Affairs on S.B.  
No. 2903-82

The purpose of this bill is to repeal the subsection of the conveyance tax law which makes it unlawful for any state officer or employee to reveal information contained in a certificate of conveyance.

All testimonies received by your Committee on this bill were favorable. The City

and County of Honolulu noted that the removal of the confidentiality requirement would allow the real property tax assessors to disclose all relevant data used to assess property. Such disclosure would serve to substantiate assessments since the taxpayers would have access to the data used by the assessors. Other testimony noted that the information contained in certificates of conveyance, such as the names of sellers and buyers, location and description of property, and the sale price, is available from other sources such as real property tax records and title records contained in the Bureau of Conveyances. Accordingly, your Committee believes the confidentiality requirement has no useful purpose.

Your Committee on Water, Land Use Development and Hawaiian Affairs is in accord with the intent and purposes of S.B. No. 2903-82, 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. 677-82      Water, Land Use, Development and Hawaiian Affairs on S.B.  
No. 2218-82

The purpose of this bill is to amend existing law to provide that all property, including aircraft, vehicles, or vessels, used or possessed in violation of title 12 and rules and regulations promulgated thereunder, be declared a public nuisance and be subject to seizure by any enforcement officer of the Department of Land and Natural Resources or by any police officer.

The bill further provides that upon conviction of the person having possession of such property for a violation of any provision of such laws or rules and regulations, the property may be declared by the court to be forfeited to the State.

Additionally, any property so forfeited may be retained and utilized by the Department of Land and Natural Resources or, if not needed by the department, shall be sold at public auction in the judicial circuit in which it was seized.

Your Committee on Water, Land Use Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 2218-82 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Hirono.

SCRep. 678-82      Water, Land Use, Development and Hawaiian Affairs on S.B.  
No. 2201-82

The purpose of this bill is to eliminate the ceiling of \$6,000 currently imposed on the Department of Hawaiian Home Lands for the employment of agricultural and aquacultural experts. This provision in the law is obsolete and serves no useful purpose.

Your Committee on Water, Land Use Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 2201-82, 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. 679-82      Public Assistance and Human Services on S.B. No. 2180-82

The purpose of this bill is to require applicants for and recipients of medical assistance to assign any benefits resulting from a third party liability to the Department of Social Services and Housing. The Department is required to apply the rights or amounts assigned to the cost of medical care incurred by the applicants or recipients.

Applicants for and recipients of medical assistance are not required to make assignments of benefits from third party liability to the Department. The director of social services, in testimony supporting the bill, states that the Department currently makes requests for assignments, but that some recipients of medical assistance refuse to make the assignments.

Requiring applicants for and recipients of medical assistance to assign benefits from third party liability to the Department has the potential of reducing the State's expenditure

for medical assistance. In most cases, benefits are awarded when the persons suffer physical injury. Under current law, recipients of medical assistance who suffer injury from third party omissions or acts, who are awarded benefits because of the liability of the third party, and who have not assigned the benefits to the Department are not required to use the award for payment of medical care. Under this bill, the benefits are required to be applied to the cost of medical care, which cost may otherwise have to be borne by the Department.

Your Committee on Public Assistance and Human Services is in accord with the intent and purpose of S.B. No. 2180-82, 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. 680-82      Transportation on S.B. No. 2765-82

The purpose of this bill is to require the successful bidder for an in-bond contract at Honolulu International Airport (HIA) to post a bond equal to six months of the highest rental guarantee. The imposition of a higher bonding requirement is necessary in order to give the State Department of Transportation sufficient time to prepare for the award of major concession contracts and assure continued revenues between the termination of one contract and the award of another contract for a replacement concession.

In previous testimony to a companion House bill, the Department of Transportation was of the opinion that other large, complex concessions at Honolulu International Airport, such as food and beverage and parking and ground transportation, should also be required to meet expanded bonding requirements.

In order to encompass this broader perspective your Committee has amended Section 1 of this bill deleting the word "and" in line 9 and inserting "or" in its place, and by replacing the phrase "charges, if any" with the word "charge" in line 10. For purposes of specificity, it has further amended the bill to require those contracts for the sale and delivery of in-bond merchandise at HIA to post a bond in an amount no less than six months of the highest minimum annual rental contract guaranty.

Your Committee has further amended the bill to make other non-substantive changes reinserting the word "of" after or in line 12.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2765-82, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2765-82, S.D. 1, H.D. 1 and be referred to the House Committee on Finance.

Signed by all members of the Committee.

SCRep. 681-82      Transportation on S.B. No. 2851-82

The purpose of this bill is to reinstate funds for highway beautification and the disposition of abandoned vehicles, by amending section 286-51 of the Hawaii Revised Statutes. The enactment of this bill would allow the counties to assess, along with the motor vehicle registration fee, a 50 cents fee to provide for highway beautification and the disposition of abandoned vehicles.

Act 237, SLH 1976, inadvertently deleted the provisions for the 50 cents, originally enacted by Act 161, SLH 1972.

Your Committee received favorable testimony from the City and County of Honolulu Department of Public Works and the Honolulu City Council, stating the need for such a fee to help defray the costs of continuing the program.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2851-82, S.D. 1, and recommends that it pass Second Reading and be referred to the House Committee on Finance.

Signed by all members of the Committee.

SCRep. 682-82      Energy, Ecology and Environmental Protection on S.B. No.  
2343-82

The purpose of this bill is to clarify the hazardous waste management responsibilities of the Department of Health by authorizing the Director of Health to regulate and permit facilities that treat, store, and dispose of hazardous waste. This bill also authorizes the Director of Health to impose financial responsibility requirements on facilities that treat, store, and dispose of hazardous wastes.

Your Committee finds that under current law there are no statutory provisions regarding hazardous waste management in the State. Because of the potentially dangerous effects of hazardous waste, proper procedures for the treatment, storage, transfer, and disposal of such materials are essential.

Your Committee has amended the definition of "hazardous waste" on pages 10-11, paragraph (6) of this bill. The definition of "hazardous waste" has been changed to conform with the definition of hazardous waste as defined by the permit regulations implementing the federal Resource Conservation and Recovery Act of 1976.

Testimony indicated that the proposed definition of hazardous waste, as defined in S.B. No. 2343-82, S.D. 1, is vague and unmanageable. Under that proposed definition, many nonhazardous waste materials presently being disposed of at our landfills would be prohibited.

Your Committee on Energy, Ecology and Environmental Protection is in accord with the intent and purpose of S.B. No. 2343-82, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2343-82, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair,  
Isbell, Monahan and Narvaes.

SCRep. 683-82      Energy, Ecology and Environmental Protection on S.B. No.  
2909-82

The purpose of this bill is to provide partial funding for Phase II-A of the Hawaii Deep Water Cable Program. This bill includes a \$550,000 appropriation to accomplish the purposes of this bill and to supplement prior appropriations.

Your Committee finds that there are extensive geothermal resources on the island of Hawaii. In order to derive the greatest benefit from the electricity generated from such resources, an undersea transmission cable between Hawaii and Oahu is imperative. The development of such a cable will further ensure achievement of the State goal of energy self-sufficiency.

Your Committee on Energy, Ecology and Environmental Protection is in accord with the intent and purpose of S.B. No. 2909-82, 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 except Representatives Blair,  
Isbell, Monahan and Narvaes.

SCRep. 684-82      Energy, Ecology and Environmental Protection on S.B. No. 1308

The purpose of this bill is to authorize the advancement of state funds to the counties to finance the federal share of the planning and design costs of wastewater treatment works. This funding advance shall be reimbursed by federal funds during the construction stage of these treatment facilities. The bill also includes an appropriation of \$5,300,000 to accomplish the purposes of this bill.

Your Committee finds that amendments to the federal Clean Water Act in 1981 resulted in the withholding of federal fund reimbursements for planning and design of wastewater treatment facilities until actual construction for these facilities is initiated. This bill would authorize a funding advance to the counties for these projects and ensure maximum utilization of available federal funds.

Your Committee on Energy, Ecology and Environmental Protection is in accord with the intent and purpose of S.B. No. 1308, S.D. 2, and recommends that it pass Second



Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair, Isbell, Monahan and Narvaes.

SCRep. 685-82 Energy, Ecology and Environmental Protection on S.B. No. 553

The purpose of this bill is to remove the restriction which allows tax credits only for heat pumps in home water heaters so that non-residential users can participate in the tax credits for such devices. Additionally, the bill includes a ceiling of \$3,000 on the tax credit.

Your Committee has amended the bill by increasing the present 10 per cent tax credit to 20 per cent. Your committee believes that given the currently high inflation rate and the need to maximize incentives for the purchase and utilization of alternate energy devices, an increase in the tax credit is warranted.

Your Committee on Energy, Ecology and Environmental Protection is in accord with the intent and purpose of S.B. No. 553, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 553, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Blair, Isbell, Monahan and Narvaes.

SCRep. 686-82 Public Employment and Government Operations on S.B. No. 2759-82 (Majority)

The purpose of this bill, as received by your Committee, is to increase the salaries or maximum salaries of certain executive branch officers, judges and certain judicial officers, and legislative agency officers of the State government whose compensation is presently fixed or limited by statute. The bill also freezes, after June 30, 1982, the salaries of county officers or employees whose salaries are not determined under chapter 77 or 89C, Hawaii Revised Statutes. Additionally, the bill creates a compensation review commission to review the salaries or wages of all State and county employees and to recommend a compensation schedule for all such employees.

To provide for the salary increases, the bill amends the various sections of the Hawaii Revised Statutes which set or limit the annual salaries of those high level State officers covered by this bill, including the Governor, the Lieutenant Governor, department heads and their deputies, the chairperson and members of certain quasi-judicial boards or commissions, and other officers or administrators within the executive branch; judges and certain appointed officers within the judicial branch; and the heads and deputies or assistants of the three legislative agencies (Legislative Reference Bureau, Office of the Auditor, and Office of the Ombudsman).

Your Committee finds that these elected or appointed officers of the State received their last salary adjustments over six years ago on January 1, 1976. Subsequently, subordinate employees covered by collective bargaining have received annual salary increases which, when compared with the salaries of the high level executive, judicial, and legislative officers covered by this bill, create inequities in the overall State compensation structure. Moreover, the salaries of elected and appointed county officers, in general, have also been more frequently and more adequately adjusted in comparison with the salaries of the State officers covered by this bill.

Furthermore, as a result of a recent Hawaii circuit court decision invalidating the "95% statutory limit" or lid on the salaries of certain categories of public officers and employees who are excluded from collective bargaining [sections 89C-2(2) and 89C-2(3), HRS], as that lid was being applied to a number of upper level civil service and non-civil-service management personnel so excluded, a considerable number of such upper level administrators are now being paid more than their respective administrative superiors and/or more than department heads or deputy department heads. (See Public Employees' Management Association of Hawaii v. Ariyoshi, Civil No. 65791, First Circuit Court, State of Hawaii (1981).)

In view of the foregoing, your Committee believes that salary adjustments for the State officers covered by this bill are merited to alleviate the existing pay inequities in the public sector.

As received by your Committee, the bill (S.D. 1) did not contain any specific salary figures. Accordingly, and after due deliberation, your Committee has amended the bill by inserting the necessary salary figures which provide for a ten percent salary increase for each of these State officers, retroactively effective on July 1, 1981, and another ten percent increase, effective July 1, 1982. To fund these increases, the necessary appropriation figures have also been respectively inserted in the appropriations sections of Parts I, II, and III of the bill for the three affected branches (executive, judicial, and legislative).

Part IV of the bill, as received by your Committee, would prohibit the salary of any county officer or employee which is not determined under chapter 77 or 89C, HRS, to be increased after June 30, 1982. After considerable deliberation, your Committee has amended Part IV (Sections 34 and 35 of the bill) to prohibit both the State and the counties from providing salary adjustments or increases to certain State and county officers where the adjustment constitutes an automatic increase which is, directly or indirectly, dependent upon and related to negotiated salary increases received by civil service or non-civil-service employees covered by collective bargaining. Your Committee firmly believes that any law or provision providing for such automatic salary increases is unsound public policy.

The rationale or justification for such a prohibition is fully explained in Section 34 of the bill which has been extensively amended by your Committee. In brief, the statutory prohibition drafted by your Committee, contained in Section 35, is a general law of statewide concern and interest necessitated in the public interest by the significant and urgent problems, as fully discussed in Section 34, of conflicts of interest and the adverse effects flowing from the present lack of an equitable, integrated, and coordinated overall statewide compensation structure for State and county officers and employees. These problems, as discussed in Section 34, require immediate legislative action justified by important and substantial State interests.

Part V of the bill, as received, creates a public officers and employees compensation commission of nine members, appointed by the Governor, to "review the salaries or wages of all state and county employees and recommend a compensation schedule containing appropriate salaries or wages for all public officer and employee positions" and to report by the 1983 legislative session. (Emphasis added.)

Among other things, your Committee has amended Part V to:

- (1) Make it clear that the commission is purely advisory and not one vested with discretionary, executive powers.
- (2) Expand the membership from nine to eleven members and thereby broaden the representation on the commission, and add a new provision specifying how any vacancy, occurring after the initial appointments have been made, shall be filled.
- (3) Provide that the commission shall review the compensation or salaries of certain specified categories of State and county officers and employees rather than all public sector employees. For example, civil service employees are excluded from the mandatory review because their compensation schedules or system is already regulated by Chapter 77, HRS. However, your Committee has also inserted a provision to the effect that the commission is not precluded from reviewing civil service compensation schedules for comparison purposes or any other schedule or system it deems relevant.
- (4) Clarify and expand the standards or provisions which the recommended compensation schedule must address or contain.
- (5) Ensure or require the cooperation and assistance of State and county agencies in the commission's review.
- (6) Allow the commission more time to undertake a comprehensive review by extending the reporting date and the commission's termination date from 1983 to 1984.
- (7) Inserting an appropriation figure for the commission's operations for two fiscal years.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2759-82, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2759-82, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.  
(Representatives de Heer and Dods did not concur.)

SCRep. 687-82          Public Employment and Government Operations on S.B. No.  
2816-82

The purpose of this bill is to facilitate the implementation of Chapter 42, Hawaii Revised Statutes, (Act 207, Session Laws of Hawaii 1981), which establishes standards for the making or awarding of grants, subsidies, and purchases of service by the State, by making a number of amendments to that Chapter.

The general intent of the amendments made by this bill is to liberalize some of the restrictions and conditions imposed on applicants and recipients of grants and subsidies from the State and on providers of services under a purchase of service contract with the State.

Your Committee concurs with the amendments made in S.D. 2 of the bill by the Senate Committee on Ways and Means as reflected in Senate Standing Committee Report No. 489-82.

Your Committee has amended this bill by redefining "purchases of service" to exclude services that are obtained by contract to fulfill state functions and responsibilities mandated by law. Such services would be excluded from the application of Chapter 42, Hawaii Revised Statutes. Your Committee feels that the requirements of Chapter 42 should not be applied to contracts to fulfill state functions and responsibilities.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2816-82, S.D. 2, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2816-82, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Waihee.

SCRep. 688-82          Public Employment and Government Operations on S.B. No. 2173-82

The purpose of this bill is to exclude deferred compensation from the computation of state income taxes. Such a deferment already exists for federal income taxes.

Your Committee heard testimony from the Department of Taxation which has no objections to this bill.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2173-82, 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. 689-82          Public Employment and Government Operations on S.B. No. 2160-82

The purpose of this bill is to allow any state agencies to contract with bonded collection agencies for the collection of delinquent accounts.

Presently there are a large number of unpaid debts outstanding to the State of Hawaii. These include, among other things taxes, lease rents, and license fees. The ability to collect on these debts could constitute a major contribution to State revenues. This bill would allow the director or chairperson of each state agency to retain a qualified collection agency bonded under Chapter 443A to collect delinquent moneys.

The Department of Taxation urges enactment of this bill.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2160-82, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 690-82      Public Employment and Government Operations on S.B. No. 1390

The purpose of this bill is to amend Section 143-8, Hawaii Revised Statutes, to increase from fifty cents to five dollars the penalty for unlicensed dogs and to provide each county with the authority to set its own impounding fee. This Act will relieve each county of the need to seek legislative amendments should the actual cost of impounding dogs differ from county to county.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1390, 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. 691-82      Public Employment and Government Operations and Employment Opportunities and Labor Relations on S.B. No. 2890-82

The purpose of this bill is to add a new section to the Collective Bargaining in Public Employment Law, Chapter 89, and the Hawaii Employment Relation Act Law, Chapter 337, Hawaii Revised Statutes. Both Chapters 89 and 377, Hawaii Revised Statutes, are amended to address religious exemption from support of employee organizations and from labor organization membership, respectively.

This bill provides employees who are members of and adheres to established teachings of a bona fide religion or sect historically holding conscientious objections to joining or financially supporting employee organizations or labor organizations shall not be required to do so. An employee who qualifies for a religious exemption under this section may be required to pay sums equal to the dues and initiation fees, to a nonreligious, nonlabor organization charitable fund. Also, qualified employees of this section who request and receive the use of the grievance arbitration procedure may be charged for reasonable cost of using the procedure.

The Hawaii Government Employees Association at one time resisted this type of legislation, however their concerns are now satisfied with this bill and are in support of it.

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. 2890-82, 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.

SCRep. 692-82      Public Employment and Government Operations on S.B. No. 2600-82

The purpose of this bill is to amend section 89-4, Hawaii Revised Statutes, by clarifying the implementation process of Act 180 which relates to the deduction of regular dues and service fees for collective bargaining in public employment.

The present system requires the employer to deduct from the payroll of every member employee of an exclusive bargaining representative the amount of regular dues required of its members after receiving a written statement from an exclusive bargaining representative specifying the amount of regular dues required of its members and to remit the amount to the exclusive bargaining representative only upon written authorization of the member employee.

The bill would eliminate the requirement of a written authorization of all members and nonmembers, and the original intent was to make it mandatory to obtain written authorization only from new employees covered by collective bargaining units. The bill would also eliminate a tremendous amount of paperwork and administrative costs that would have to be borne by the employee organizations.

Your Committee heard testimonies from the Department of Accounting and General Services, the Hawaii State Teachers Association and the Hawaii Government Employees Association who testified in favor of the bill.

Your Committee concurs with the amendment made in S.D. 1 of the bill by the Senate Committee on Human Resources which provided for the termination of payroll deductions

of both members and nonmembers when the employee organization is no longer the exclusive representative.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2600-82, 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. 693-82          Public Employment and Government Operations on S.B. No. 2643-82

The purpose of this bill is to amend Section 87-22.5, Hawaii Revised Statutes, to change the term "employees" to "employee-beneficiaries", and to restore the deleted portion whereby the surplus from the Health Fund would remain with the Dental Plan.

Your Committee concurs with the intent of the bill in inserting "employee-beneficiaries" for "employees" which testimony supports as an oversight. The intent of the Health Fund Law, Chapter 87, Hawaii Revised Statutes, was to have the term "employee-beneficiaries" so as to protect the children under the age of 19 of deceased retired employees and those of employees who are killed in the performance of duty.

Act 61, Session Laws of Hawaii, which recently became Chapter 87-22.5, Hawaii Revised Statutes, permits the Health Fund to transfer the Children's Dental Plan subsidy to a participating employee organization that has a children's dental plan. Your Committee concurs that the surplus funds from the Health Fund should remain with the Dental Plan to be used to purchase benefits.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2643-82, 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. 694-82          Public Employment and Government Operations on S.B. No. 1447

The purpose of this bill is to eliminate the requirement that a person must survive for at least thirty days after the filing for retirement in order to receive the benefit option designated by the employee. Presently, for an employee who dies within thirty days after the date of filing his/her application, the employee's beneficiary would receive: 1) all accumulated retirement contributions, 2) all contributions to the post retirement fund and, 3) up to a maximum of the employee's yearly salary. This method would prevail unless it was determined that the employee's death was the result of a terminal illness diagnosed by a licensed physician more than thirty days prior to death.

If the employee dies within thirty days after the date of filing retirement application, this bill would allow the beneficiary of the employee to receive the allowance under the option selected by the employee which would have been payable had the employee actually retired. In essence, the bill directs the retirement system to honor the wishes of the employee in the dispensation of retirement benefits beginning on the day on which the retirement application was filed.

After hearing testimonies from the Hawaii Government Employees Association and the State Retirement System, your Committee has seen fit to amend S.B. 1447, S.D. 1 by deleting Section 1 of the bill in its entirety. This section would have allowed judges and elected officials to re-enter the retirement system after having retired for the purpose of increasing their maximum retirement benefits. The Committee felt this could lead to an unwarranted abuse of the system.

Your Committee on Public Employment and Government Operations is in accord with the intent of S.B. No. 1447, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1447, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 695-82      Public Employment and Government Operations on S.B. No. 2312-82

The purpose of this bill, is to limit the investment of state funds in savings accounts to federally insured financial institutions and investment of state funds in repurchase agreements to federally insured banks, and savings and loan associations authorized to do business in the State.

By limiting investments to federally insured institutions, your Committee is assured of the safe investment of state moneys.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2312-82, 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. 696-82      Public Employment and Government Operations on S.B. No. 2607-82

The purpose of this bill is to amend chapters 77, 78, and 89C, Hawaii Revised Statutes, by deleting the limitations on the salaries of excluded and other public officers and employees.

Presently the statutes provide for salary limitations of excluded employees from exceeding 95% of the salaries of the first deputies or first assistants. These limitations were found to be unconstitutional and inconsistent with the doctrine of the merit principles. Repeal of these limitations will conform with the court ruling in PEMAH V. Ariyoshi, et al., Civil No. 66791, First Circuit Court, State of Hawaii.

Your Committee heard testimonies from the Director of State Personnel Services, the Hawaii Government Employees Association and the Public Employees Management Association of Hawaii who testified in favor of the bill.

Your Committee concurs with the technical, nonsubstantive amendments made in S.D. 2 of the bill by the Senate Committee Report No. 480-82.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2607-82, 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. 697-82      Public Employment and Government Operations on S.B. No. 2311-82

The purpose of this bill is to provide the Director of Finance with the added option of selecting any depository for the deposit of securities for the protection of public funds.

The Department of Finance believes that the term "depository" as used in this bill is vague, indefinite and unclear. Only financial institutions with trust powers may receive, safekeep and dispose of securities as contemplated in Chapter 38, Hawaii Revised Statutes. Therefore your Committee has deleted the words "any depository" from the bill and inserted the following "with financial institutions with trust powers authorized to do business in the State of Hawaii". This amendment will provide the Director of Finance the added option of selecting qualified institutions for deposit of securities.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2311-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2311-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 698-82      Energy, Ecology and Environmental Protection on S.B. No.  
2167-82 (Majority)

The purpose of this bill is to terminate the Environmental Quality Commission and



transfer the commission's functions to the Office of Environmental Quality Control (hereinafter OEQC).

Your Committee finds that there is a need to restructure and strengthen the state environmental assessment program. To do this your Committee has amended the bill by eliminating the Environmental Quality Commission and transferring its responsibilities to both the OEQC and the Environmental Council (hereinafter Council) and by removing the OEQC and the Council from the administration of the Department of Health and placing them under the administration of the Department of Budget and Finance.

The OEQC was established to act as an independent agency to implement the environmental impact assessment program for the state. The Environmental Quality Commission and the Environmental Council were each set up to serve as citizen based review and advisory boards. The present set up has created much confusion as to the responsibilities and authority of the two bodies since each was organized to act as liaisons between the general public, private interests, state agencies and the Governor. This bill will alleviate that confusion by eliminating the Environmental Quality Commission and by clarifying and delineating the role and function of the remaining two bodies so that the state environmental impact assessment program can be carried out more effectively.

The OEQC and the Council are both presently under the administration of the Department of Health. Your Committee believes that the Department of Health is faced with a conflict of interest when it is responsible for the administration of these two offices. To eliminate this conflict this bill has been amended so that the OEQC and the Council will be placed under the administration of the Department of Budget and Finance to allow both offices a greater opportunity to act effectively and independently towards fulfilling the goals of the state environmental policy.

Your Committee has further amended the bill as follows:

1. Section 341-3, subsection (c) has been amended to change the role of the director of the Council from Council chairman to ex-officio member and the Council to elect the chairperson. The provision which detailed the governor's setting the salary subject to legislative appropriation has been deleted.
2. All brackets have been removed from Section 341-6 so that the functions of the Council remain unchanged and that it remains as a liaison between the director and the general public and not just an advisory body to the director. A change, however, has been made on page 3, line 23 where the word "director" has been changed to "chairperson" so that the meetings of the Council shall be called by the chairperson instead of the director. A new sentence is also added which reads: "The Council will determine and define the long range environmental goals of the state and shall exercise such direction of the OEQC to achieve such goals."
3. Present statutory language in chapter 343 which makes references to the Environmental Quality Commission has been changed to reflect the termination of the Commission and its replacement by either the OEQC or the Council.
4. Section 343-6 has been amended by adding a new subsection (8) which makes the OEQC responsible for prescribing procedures for the appeal to the Council of a determination made by an agency that a statement is not required under section 345-5(b) and (c).

Other technical changes have been made for style and clarity.

Your Committee on Energy, Ecology and Environmental Protection is in accord with the intent and purpose of S.B. No. 2167-82, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2167-82, S.D. 1, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives  
Hashimoto, Kawakami, Morioka and Monahan.  
(Representative Blair did not concur.)

SCRep. 699-82 Consumer Protection and Commerce on S.B. No. 2513-82

The purpose of this bill is to require every person who operates an electric light or power business as a public utility to pay to the director of finance of the county in which it operates 2-1/2 per cent of the gross receipts. This bill would provide for a



uniform franchise tax rate of 2-1/2 per cent for every county throughout the State of Hawaii.

Under present law, utilities must pay to the counties in which it operates an amount equal to 2-1/2 per cent of its gross revenues as a franchise tax, unless the tax is governed by a prior franchise specifying a different sum. Your Committee finds that Maui Electric Company is the only utility within this category and pays a tax of one per cent under its preexisting franchise.

The purpose of a utility's franchise is to benefit utility customers by granting utilities the right to use public easements for their services to utility customers without having to apply for separate rights-of-way whenever a need arises for such right. This bill would standardize at 2-1/2 per cent the rate of franchise tax payable to the counties.

Your Committee has amended the bill to provide that the effective date of the bill be January 1, 1984.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2513, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2513, S.D. 1, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 700-82 Youth and Elderly Affairs on S.B. No. 2248-82 (Majority)

The purpose of this bill is to extend the time for a child or his personal representative to file a paternity action to three years beyond majority.

The present statute requires that an action in paternity be brought within three years of the child's birth. If the child's mother either refuses, neglects or fails through ignorance of the law to file within the three-year period, the child is forever barred from securing support.

The present statute allows the alleged father to avoid the moral and legal responsibility of his child. As a result, considerable burden is placed upon the mother and taxpayers.

The Department of Social Services and Housing and the Family Support Division, Department of Corporation Council testified in support of this bill.

Your Committee finds that the statute of limitation was intended to protect an alleged father from having to defend an accusation of paternity many years later. However, in view of significant scientific advances in the field of blood testing and genetics, there are now blood tests which provide the alleged father with a 98-99 percent accurate exclusion rate.

Your Committee is concerned with obtaining statistical evidence to support the need to amend the current statute. The Department of Social Services and Housing and Department of Corporation Council have agreed to forward this statistical data to your Committee.

Your Committee on Youth and Elderly Affairs is in accord with the intent and purpose of S.B. No. 2248-82, S.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

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

SCRep. 701-82 Employment Opportunities and Labor Relations on S.B. No. 2524-82

The purpose of this bill is to reduce the cost of administering workers' compensation claims in those cases where the employee suffers a work-related injury which increases an existing disability resulting in a greater permanent partial disability, permanent total disability, or death. While the bill will reduce administrative and legal costs connected with workers' compensation claims, it will not reduce benefits paid to injured employees.

Questions were raised by members of your Committee on subsection (b) of this bill.

Committee members felt that requiring an employer rather than the special compensation fund to pay all of the compensation for any worker who has suffered a previous partial disability which resulted in award of up to 52 weeks was too severe. Your Committee has therefore amended subsection (b) to read 32 weeks as opposed to 52 weeks.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of S.B. No. 2524-82, S.D. 1, as amended herein and recommends that it pass Second Reading and be referred to the Committee on Finance in the form attached hereto as S.B. No. 2524-82, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representatives Kiyabu, Nakasato, Waihee, Marumoto and Medeiros.

SCRep. 702-82      Public Employment and Government Operations on S.B. No. 2198-82

The purpose of this bill is to appropriate moneys for the court-ordered payment of retroactive salary increases and adjusted fringe benefits for certain public officers and employees who are excluded from collective bargaining.

The Circuit Court, in PEMAH, et al, v. State of Hawaii, et al, (Civil No. 65791), found that Section 89C-2, Hawaii Revised Statutes, which limits the salaries of certain public officers and employees who are excluded from collective bargaining to ninety-five per cent of the salaries of their departments' first assistants or deputy directors or the president of the University of Hawaii, as the case maybe, to be unconstitutional. The court's judgment also awarded back pay and required commensurate adjustments of fringe benefits for the excluded officers and employees for the period beginning May 26, 1979 to June 30, 1981.

In response to inquiries from Committee members, the Attorney General's Office has indicated that the Court's ruling did not include provisions for the payment of interest on the back pay settlement, therefore none is required.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2198-82 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 703-82      Transportation on S.B. No. 2471-82

The purpose of this bill is to remove the power of the administrator of the Motor Vehicle Safety Responsibility Act from suspending the driver's license of those who fail to pay a judgment for damages resulting from the ownership, maintenance or use of any motor vehicle.

This bill attempts to correct the inequities which may arise by the continued suspension and bar of renewal of a driver's license by providing for the reinstatement of a driver's license upon proof of financial responsibility in situations where the license was originally suspended as a result of the nonpayment of a judgment.

Your Committee believes, as it is consistent with the original intent of the Motor Vehicle Safety Responsibility Act that the administrator should retain the power to suspend the license of a person who fails to pay a judgment for damages arising from the ownership, maintenance or use of any motor vehicle.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2471-82, S.D. 2, and recommends that it pass Second Reading and be referred to the House Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 704-82      Education on S.B. No. 2350-82

The purpose of this bill as received by your Committee is to require any pupil found to be responsible for an act of vandalism, or that pupil's parents or guardian, to make monetary restitution for the full amount of damages caused by requiring the Board of Education to bring an appropriate action in any court of competent jurisdiction to collect

the restitution.

Your Committee finds that school vandalism is costly to Hawaii taxpayers and even partial figures indicate costs of almost \$1 million per year for the last four years as a result of vandalism. This situation cannot be tolerated and the pupils responsible for vandalism, or their parents or guardians, rather than taxpayers, should pay for such costs.

Your Committee has amended this bill in the following manner:

- (1) Retained the present system for providing restitution for damage to public school property.
- (2) Limited liability to \$250,000.
- (3) Required that the principal report the findings to the district superintendent for referral to the attorney general for further action.
- (4) Deleted the requirement that the Board of Education pursue restitution in any court of competent jurisdiction.

Your Committee on Education is in accord with the intent and purposes of S.B. No. 2350-82, as amended herein and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2350-82, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Monahan.

SCRep. 705-82 Consumer Protection and Commerce on S.B. No. 1630

The purpose of this bill is to require timesharing and vacation rental apartments to pay fifty per cent more in maintenance fees than residential apartments.

Presently, all condominium or mixed use apartment projects are assessed maintenance fees in proportion to the common interest appurtenant to their respective apartments. This bill would require specified apartments within a condominium to pay a more equitable share of the maintenance costs of the project. Specifically, timesharing and vacation rental apartments would be required to pay fifty per cent more in maintenance fees than residential apartments.

Further, this bill would also require project developers to provide the information published under section 514A-102 to all prospective purchasers. Presently, developers are only required to publish the information twice in a newspaper of general circulation.

Your Committee has amended the bill to delete the mandating 50 percent surcharge requirement and instead specifically provide that transient rental use shall be considered to be a commercial use for purposes of the assessment of maintenance fees. Your Committee feels that this amendment will insure that fees will be equitable and based on an identifiable standard.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1630, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1630, S.D. 1, H.D. 1, and be referred to the Committee on Housing.

Signed by all members of the Committee.

SCRep. 706-82 Consumer Protection and Commerce on S.B. No. 2517-82

The purpose of this bill is to repeal the fee schedules for the licensing and reregistration of certain occupations with the Department of Health.

Under present law, fees are set by statute in Sections 321-14 and 15, Hawaii Revised Statutes, and require legislative amendment whenever any fee is varied.

This bill will allow the Department of Health to establish by rule reasonable fees for the issuance or renewal of licenses, permits, variances, and various certificates required by law, and to include the costs of related examinations, inspections, investigations, and reviews in the amounts of the fees. The bill also repeals the statutory examination

fees and reregistration fees for persons applying for licenses to engage in or persons engaged in certain occupations regulated by the Department of Health.

This bill also repeals the requirement that itinerant vendors of drugs be licensed by the Department of Health. Your Committee finds that the requirement is obsolete because drugs are usually sold in retail stores. This finding is supported by the fact that the department has not issued a license to an itinerant vendor in the past seventeen years.

Your Committee has made a technical style amendment to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2517-82, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2517-82, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 707-82      Consumer Protection and Commerce on S.B. No. 2399-82

The purpose of this bill is to establish separate offices for the bank examiner and insurance commissioner, each to be placed within the Department of Regulatory Agencies for administrative purposes.

Under present law, the Director of Regulatory Agencies is deemed the bank examiner and insurance commissioner. This has resulted in an overly centralized administration of the regulated industries. Additionally, your Committee notes that the size and importance of the financial institution and insurance industries have markedly increased in importance, size and complexity.

Your Committee therefore agrees with the intent of the bill to establish separate offices for the examiner and commissioner, each to be included within the Department of Regulatory Agencies as separate offices within the jurisdiction of the Director.

Your Committee has amended the bill to retain the requirement that the governor approve the appointment of the bank examiner and insurance commissioner.

Your Committee has also amended the bill by deleting the present Section 17 and in its place inserting a provision conforming Chapter 671, Part III, Hawaii Revised Statutes, to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2399-82, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2399-82, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chun, Honda, Shito, Waihee and Liu.

SCRep. 708-82      Employment Opportunities and Labor Relations on S.B. No. 2913-82

The purpose of this bill is to amend section 386-98, Hawaii Revised Statutes, by increasing the penalty for making a false or misleading statement or representation under the Workers' Compensation Law.

Your Committee finds that under the present law, the penalty for false representation does not provide adequate deterrent for those who attempt to gain workers' compensation benefits under false representation. The proposed amendment shall fine anyone who willfully makes a false statement or representation for the purpose of obtaining workers' compensation benefits the sum of \$1,000.

Testimony revealed that penalties for false representation under S.B. No. 2913-82, S.D. 1, would apply to insurance carriers and employers as well as claimants. Such penalties would include the individual being convicted of a misdemeanor, and up to one year of imprisonment. Further testimony from the Department of Labor indicated that under section 386-52 and 386-91, Hawaii Revised Statutes, employers are now able to claim adjustments on compensation paid to employees who have subsequently been found to have falsely represented themselves. Also under section 710-1017 and

708-850 of the Hawaii Penal Code, but not limited to these sections, it is possible for employers to seek remuneration for payments which were made to employees who had falsely represented themselves. Therefore, your Committee finds that the additional penalties under S.B. 2913-82, S.D. 1 are unnecessary and has amended the bill by deleting these recommended additions to section 386-98.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of S.B. No. 2913-82, S.D. 1, as amended herein, and recommends that it pass Second Reading and be referred to the Committee on Judiciary in the form attached hereto as S.B. No. 2913-82, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representatives Kiyabu, Nakasato, Waihee, Marumoto and Medeiros.

SCRep. 709-82      Ocean and Marine Resources on S.B. No. 2915-82

The purpose of this bill is to repeal Chapter 218, Hawaii Revised Statutes, which establishes the office of the Marine Affairs Coordinator and its functions.

Your Committee finds that if Hawaii is to develop the immediate and long-term opportunities to utilize marine resources, the total efforts of the State to plan, research, develop, and promote the uses of the marine environment need to be effectively coordinated.

Testimony presented to your Committee by the Deputy Director of the Department of Planning and Economic Development strongly emphasized that this bill should be amended to provide that the powers and duties of the Marine Affairs Coordinator will be primarily advisory, with the other powers and duties which the statute currently assigns to the Marine Affairs Coordinator assigned to the Department of Planning and Economic Development.

Your Committee strongly believes that repealing Chapter 218, Hawaii Revised Statutes, would have an adverse effect on the State's involvement in national and international efforts to investigate, develop and utilize the marine resources of the Pacific Basin, including the marine affairs of the State.

Your Committee has amended the bill by amending Section 2182 to provide that the Marine Affairs Coordinator serve without pay, but be reimbursed for reasonable expenses for travel and per diem.

Your Committee also made other technical corrections.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of S.B. No. 2915-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2915-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kawakami and Monahan.

SCRep. 710-82      Transportation on S.B. No. 397 (Majority)

The purpose of this bill is to exempt from the use tax all aircraft and aircraft related equipment required by law which is purchased and imported into the State, and extends the exemption to barges and barge equipment.

Under present law, leased and purchased oceangoing vessels engaged in intrastate operations are exempt from the use tax pursuant to Act 144, SLH 1974. This bill extends the exemption to include barges and barge equipment in connection with such vehicles or barges for passenger or goods transportation from one point to another within the State.

Your Committee heard testimony from the Department of Taxation opposing extending the use tax exemption to aircraft and aircraft equipment purchases. The Department indicated that the relief sought was improper when the basic problems facing the airline industry appear to lie in areas of internal operational procedures, competition from other carriers as well as administration. The bill was also viewed by the Department of Taxation as opening a wedge for others to follow to request similar exemptions, advocating equal treatment.

Your Committee also received testimony from representatives of Young Brothers, Ltd., supporting the enactment of this bill with an amendment to clarify "barges and barging equipment".

Your Committee on Transportation has adopted the proposal of the Department of Taxation to exclude any reference to aircraft and aircraft equipment in the bill. Your Committee also adopted an amendment clarifying the definition of barge equipment as follows:

"(7) The use of oceangoing vehicles, barges, or equipment in connection with such vehicles or barges including dry cargo containers and refrigerator containers for passenger or goods transportation from one point to another within the State as a common carrier by water as defined in chapter 271-G."

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 397, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 397, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Takitani, Waihee and Medeiros.  
(Representatives D. Hagino and Ikeda did not concur.)

SCRep. 711-82            Judiciary on S.B. No. 2566-82

The purpose of this bill is to amend Section 641-13 to provide the State an additional ground to appeal in criminal cases where the constitutional rights of the defendant will not be violated by the appeal.

Accordingly, your Committee amended the bill to spell out specifically that the State may appeal a criminal case, in the case of a judgment of acquittal following a jury verdict of guilty.

Your Committee believes that the State should be allowed the right to appeal only where the ground therefor is spelled out with specificity. Your Committee believes that the ground proposed in the bill is overly broad. Section 641-Hawaii Revised Statutes, presently enumerates eight specific instance where the State may appeal in criminal cases.

Your Committee is in accord with the intent and purpose of S.B. No. 2566-82, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2566-82, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Kawakami, Liu and Medeiros.

SCRep. 712-82            Judiciary and Public Employment and Government Operations  
on S.B. No. 2297-82

The purpose of this bill is to provide a second law clerk for each judge of the intermediate appellate court.

The intermediate appellate court, which began operation on April 28, 1980, has made a significant impact upon the appellate case backlog, reducing the number of pending cases from 828 at the end of fiscal year 1979-80 to 698 by the end of fiscal year 1980-81. Presently, each judge issues a written opinion approximately every three and a half working days. A second law clerk for each judge will appreciably increase the output and the productivity of the court.

The addition of a law clerk is an alternative previously recommended by the National Center for State Courts in response to the ever-growing backlog of appeals prior to the establishment of the intermediate court of appeals. The addition of more judges was recommended only after increasing caseloads absorbed the productivity gains provided by the additional law clerks.

Your Committees on Judiciary and Public Employment and Government Operations are in accord with the intent and purpose of S.B. No. 2297-82, 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 Representatives  
Albano, Andrews, Kawakami, Kiyabu, Say, Liu, Marumoto and Medeiros.

SCRep. 713-82      Judiciary on S.B. No. 2869-82 (Majority)

The purpose of this bill is to clarify for state and federal tax purposes only, that parents and guardians are not required to pay for private school education and post-high school education to the extent that their minor child has property or other financial resources which may be applied to tuition and related costs of such education. The bill is not intended to limit in any way, the power of the Family Court to compel the parties in a divorce or separation to provide for the education of a minor or an adult child.

Income earned by a trust and used for a beneficiary's educational expenses will be taxed as income to the trustor-parent to the extent that the trustor-parent is legally obligated to provide such education to that beneficiary. The Internal Revenue Service has determined that the question of whether a parent has a legal obligation of support to provide private school or post-high school education is a matter of state law. The resolution of this question by this bill will mean that the income earned by or attributable to the child would be taxed to the child and not to the parents.

Testimony from the American Trust Company of Hawaii, Inc. indicated that the establishment of trusts or gifts of income-assets devoted exclusively to a child's education are traditional methods to provide more funds to meet the rising costs of education. Testimony was received to the effect that impact on the state revenues would be negligible since only a limited number of these trusts are set up and the income therefrom will still be taxed to the child.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2869-82, S.D. 2 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Honda,  
Kawakami, Liu and Medeiros.  
(Representative Taniguchi did not concur.)

SCRep. 714-82      Education on S.B. No. 2346-82 (Majority)

The purpose of this bill, as received by your Committee, is to impose an educational fee on students attending public schools whose families reside or work on a military installation or other federal property and who are not domiciliaries of the State.

According to the bill, as received by your Committee, the board of education would have been required to adopt rules providing for the charging of the educational fee when federal Impact Aid funding to the State falls below fifty per cent of the total per capita cost of education in the State, exclusive of capital outlay and debt service, for elementary or secondary students. The fee was to be calculated to make up the difference between fifty per cent of the total per capita cost of public education in the State and the actual federal funds received.

Your Committee finds that the annual educational cost per student is \$2,500 minus capital outlay and debt service. Federal funds have been less than this amount. As a result, over the past ten years, the difference between the amount to which the State of Hawaii is entitled, according to the number of students, and the actual amount of federal funds received, is almost \$50 million.

It should be noted that the estimated shortfall of \$3 million this year and an additional \$3 million next year, will not be limited to one or two years. If Impact Aid funds are lost, and not made up in some fashion, the State will be funding a recurring multi-million dollar bill each year in additional costs.

Your Committee further finds that the federal Impact Aid Program (P.L. 81874), enacted in 1950, is essential to meet the educational costs of operating the public school system.

Your Committee agrees with the intent of this bill which is to ensure that the federal government provide adequate funding for the thousands of federally connected students enrolled in the State's public schools. But, your Committee believes that we must not



resort to billing parents and students for the inability of the federal government to meet their obligations.

Your Committee has amended the bill in the following principal respects:

- (1) Provided a "Findings and purpose section" within a new Part VI of Chapter 296, Hawaii Revised Statutes.
- (2) Deleted the sections requiring the board of education to adopt rules for the imposition of an educational fee on families who reside or work on a military or naval installation or other federal property and who are not domiciliaries of the State.
- (3) Provided a definitions section to "education fee" and "federally connected student".
- (4) Provided a mechanism to authorize the Governor to enter into negotiations with the appropriate agency or entity of the federal government for the purpose of securing a reasonable portion of the costs incurred by the State to provide federally connected students with an education comparable to that provided to the children of its residents.
- (5) Provided that the Governor may declare that no tax revenues may be expended if the federal government fails to arrange for payment of an amount satisfactory to the Governor.

Your Committee believes that this bill, as amended, will provide the Governor with the flexibility and leverage to negotiate with the federal government in order to ensure a properly functioning public education system.

In addition, your Committee strongly believes that no child should be denied access to our public school system.

Your Committee on Education is in accord with the intent and purposes of S.B. No. 2346-82, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2346-82, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Say,  
Takamine, Takitani and Monahan.  
(Representative Anderson did not concur.)

SCRep. 715-82          Judiciary on S.B. No. 2269-82

The purpose of the bill is to establish a special fund in the office of the Attorney General to finance the training programs of the state and county criminal justice agencies.

Your Committee finds that in order to implement an effective program to combat crime, the various components of the criminal justice system must have persons who are highly skilled and specially trained. The bill seeks to establish a fund to be used for the training of criminal justice personnel by a system of fines to be levied upon all persons convicted of a criminal or traffic offense.

The funds would be appropriated to the department of attorney general and would be available to criminal justice agencies such as the department of the attorney general, the county departments of the prosecuting attorneys, the office of the state public defender, the corrections division of the department of social services and housing, the statewide intake service centers, and personnel of the judiciary branch of government involved with criminal cases.

Your Committee believes that the most efficient and effective method to fund such a training program is through the use of general fund appropriations rather than a special fund, since general fund appropriations will assure that the program will definitely have the funds appropriated, rather than relying on penalty assessment that may vary from year to year. Accordingly, the bill has been amended to provide that criminal justice training fund shall be funded through general fund appropriations.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2269-82, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2269-82, S.D. 2, H.D. 1, and that it be referred to your Committee

Signed by all members of the Committee except Representatives Baker,  
Honda, Ikeda and Medeiros.

SCRep. 716-82 Higher Education on S.B. No. 2970-82

The purpose of this bill is to strengthen the residency requirements for tuition classification at the University of Hawaii.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2970-82, 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 except Representatives D. Hagino, Ige, Takamine, Takitani and Monahan.

SCRep. 717-82 Water, Land Use, Development and Hawaiian Affairs on S.B. No. 2994-82

The purpose of this bill is to clarify certain provisions relating to the Hawaii Community Development Authority's (HCDA) power and rules, and to provide HCDA with specific authorization for the implementation of the Kaka'ako Community Development District Plan and rules.

Senate Bill No. 2994-82 was a companion bill to H.B. No. 3143-82 which your Committee and the Committee on Finance previously considered. Upon consideration of S.B. No. 2994-82, S.D. 2, your Committee has amended this bill to incorporate the language contained in H.B. No. 3143-82, H.D. 2.

Senate Bill No. 2994-82, S.D. 2 has been amended to:

(1) Clarify the language of the bill with regard to provisions necessary to meet the requirements of the bond market to ensure the feasibility of successfully issuing bonds for the Kaka'ako Community Development District's district-wide improvement program. The amended language was formulated in consultation with the State's bond counsel.

(2) Eliminate the provision of the bill which expanded the boundary of the Kaka'ako Community Development District to include the area makai of Ala Moana Boulevard. Your Committee has added a provision to provide HCDA with sufficient authority to perform necessary district-related infrastructure construction and relocation activities outside of the Kaka'ako Community Development District. Accordingly, your Committee finds that an expansion of the District's boundary is not necessary.

(3) Include a Reserved Housing Loan Program which authorizes HCDA to issue taxable revenue bonds to assist purchasers of the reserved housing units which are excepted to be built in the Kaka'ako Community Development District for persons who cannot afford to purchase homes at the prevailing market rate. This provision is intended to help meet the housing objectives of chapter 206E and is crucial to the provisions of the Kaka'ako Community Development District Plan.

(4) Include a provision which authorizes HCDA to issue and sell up to \$45 million of revenue bonds for the purpose of undertaking and maintaining any of the district-wide improvement programs described in Section 206E, Hawaii Revised Statutes.

Your Committee on Water, Land Use, Development, and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 2994-82, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2994-82, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

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

SCRep. 718-82 Water, Land Use, Development and Hawaiian Affairs on S.B. No. 2224-82

The purpose of this bill is to allow DPED to adopt administrative rules governing industry and product promotion activities. This is an administration measure which would amend Section 201-4, Hawaii Revised Statutes.

Section 201-4 authorizes DPED to contract with associations of producers, processors, or distributors of agricultural or industrial products to promote sales of locally produced

products. While the law permits DPED to enter into such agreements, it does not expressly authorize DPED to adopt administrative rules to implement the statute.

Your Committee finds also that this bill would provide DPED with such authority in prescribing rules for eligibility, preferences, priorities, and conditions under which industry and product promotion activities may be undertaken. This authorization is contained in a new paragraph added at the end of the section. The bill also deletes language from Section 201-4 for housekeeping purposes, including language requiring the solicitation of bid proposals because such language is inconsistent with the intent of the bill.

Your Committee has amended the bill by bracketing out, on line 13 of page 1, the phrase "agricultural or" and the sentence beginning on line 11 on page 2. This is to be consistent with previous action taken by your Committee in recommending the transfer of agricultural product promotion from the Department of Planning and Economic Development to the Department of Agriculture.

Your Committee has also amended, at the suggestion of the Comptroller, to retain the phrase "and such data as the State Comptroller may require" on lines 19 and 20 of page 2 of the bill. The start of the bracket has been moved accordingly.

Your Committee has also amended the bill by adding a new Section 2 to change Section 201-31, Hawaii Revised Statutes, to allow the department to administer the community development block grants from the Federal Department of Housing and Community Development for the neighbor island counties. This program is being turned over to the States for administration. The City and County of Honolulu can apply directly for such grants because of its metropolitan status.

Rule making authority in both instances has been recommended by the Department of the Attorney General.

Subsequent sections have been renumbered.

Your Committee on Water, Land Use Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 2224-82, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2224-82, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Monahan.

SCRep. 719-82      Water, Land Use, Development and Hawaiian Affairs on  
S.B. No. 2814-82

The purpose of this bill is to authorize the Department of Land and Natural Resources to negotiate and enter into long term residential leases not to exceed sixty-five years with persons and certain heirs of those persons who were displaced from their original homesites by the 1926 eruption of Mauna Loa and who set up residence in the Milolii-Hoopuloa area covered by this bill.

Your Committee finds that since 1926, there have been several efforts by territorial, county, and state officials to resolve in an equitable manner, the displacement of these people. However, none have resulted in any permanent resolution; the residents of Milolii-Hoopuloa presently do not hold any tenure to the land.

Your Committee further finds that the Milolii-Hoopuloa community is one of the few remaining which testifies to a unique folk culture not easily found elsewhere in Hawaii and is one which warrants preservation, particularly in light of the new development projects and increased in-migration which have considerably changed the Kohala-Kona coast in recent years.

Your Committee is of the opinion that the Milolii residents should be helped in the manner provided by this bill.

Testimony presented at the hearing on this bill indicates that certain amendments are necessary, and your Committee has incorporated them in this bill.

Section 2(1) has been amended by adding the phrase "and continue to reside" after the word "reside" in line 18 of page 2 of the bill. This is to assure that the persons affected actually resided in the area during the period mentioned.

Section 2(5) has been amended to delete the phrase beginning with the word "or" in line 15 of page 3. This is to assure that only persons who intended to reside in the area will benefit from the provisions of this bill.

Section 5 has been amended by changing the expiration date of the Act from 1984 to 1985. This is to provide more time for the negotiations to be completed.

Section 6 has been deleted because it might create problems as to who can be helped by OHA and because it is not necessary in any event. However, it is assumed that OHA's cooperation and assistance to the Milolii people will continue.

Section 6 has been renumbered accordingly.

Your Committee on Water, Land Use Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 2814-82, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2814-82, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Monahan.

SCRep. 720-82      Water, Land Use, Development and Hawaiian Affairs on  
S.B. No. 2904-82

The purpose of this bill is to create a state water commission, attached to the Department of Land and Natural Resources for administrative purposes, and to establish guidelines for the commission to use in the formulation of a state water code.

Your Committee finds that the State, pursuant to Article XI, section 7 of the Constitution of the State of Hawaii, has an obligation to protect, control, and regulate the use of Hawaii's water resources for the benefit of its people by establishing conservation, quality, and use policies; defining beneficial and reasonable uses; protecting water resources and related environments; establishing criteria for water use priorities; safeguarding existing water uses; and establishing procedures for regulating all water uses. The formulation and enactment of a state water code is necessary to implement this constitutional provision. In order to accomplish this constitutional mandate, your Committee finds that a comprehensive review of the numerous issues relating to Hawaii's water resources should be conducted by a specially designated study group.

Your Committee received testimony from representatives of the Department of Land and Natural Resources, the Board of Water Supply of the City and County of Honolulu, and the Hawaiian Sugar Planters' Association in support of this bill. All of these representatives believe that there is a need to formulate a state water code which would provide the basis for the development of a strong water management program in the State.

Your Committee upon further consideration has significantly amended the bill. The bill in its amended form:

- (1) establishes an advisory study committee on water resources, instead of a water commission, to carefully and comprehensively review the various issues relating to Hawaii's water resources;
- (2) specifies areas to be considered by the advisory study committee during the formulation of the water code;
- (3) requires the advisory study committee to receive such administrative support as it may request from the Legislative Reference Bureau;
- (4) requires the advisory study committee to submit a progress report on its activities prior to the convening of the second regular session following the effective date of this bill;
- (5) requires the advisory study committee to submit a report to the Legislature, no later than 20 days prior to the convening of the third regular session following the effective date of this bill, which contains the committee's findings and recommendations and a proposed water code for consideration and, as appropriate, adoption by the Legislature; and
- (6) appropriates a total sum of \$510,000 for use by the advisory study committee in carrying out the purposes of this bill.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 2904-82, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2904-82, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Baker, Morioka and Monahan.

SCRep. 721-82 Health on S.B. No. 2955-82

The purpose of this bill is to fix the responsibility for emergency medical services, as well as to provide funding for such services. This bill requires each county with a population of 200,000 or more to implement a comprehensive pre-hospital emergency medical services system consistent with standards established by the Department of Health, with such a system to be operated by the State in those counties with a population of less than 200,000.

Your Committee heard Department of Health testimony favoring continued State responsibility for the emergency medical services system established pursuant to Act 148, Session Laws of Hawaii 1978. Your Committee concurs with the Department's belief that the system has attained the basic goals of Act 148. Your Committee also recognizes the Department's legitimate concern that the provisions of this bill, creating two classes of counties based on population, may be premature and may seriously impact the uniform emergency medical services system presently existing throughout the State. Such a classification would seriously fragment the standardization of the system established under Act 148 and would, in particular, significantly affect neighbor island operations.

The Department recommended that the State retain all training, data collection and evaluation functions in order to preserve the accomplishments of the system since its inception in 1978. The Department further suggested that the effective date of this bill be amended to read January 1, 1983, in order to allow the State enough time to develop new rules and to receive public input.

Your Committee also heard testimony from the City and County of Honolulu that there is no rational basis for the classification of emergency medical services according to population.

In consideration of the testimony received, your Committee finds that emergency medical services should be provided on a statewide basis for all residents regardless of the population of the county in which they reside. Accordingly, your Committee has amended this bill to provide that counties with populations of less than 200,000 shall be treated equally with counties with populations of 200,000 or more, and shall implement a county system of pre-hospital emergency medical services consistent with the standards and levels of service established by the Department of Health in the statewide system.

Your Committee has also deleted any statutory references which are inconsistent with substantive amendments proposed by your Committee as follows:

- (1) Amending §27-21.6, pertaining to functions reassigned to the counties, to assign emergency medical services, as defined in §321-222 to include emergency ambulance services, to the counties.
- (2) In consonance with your Committee's finding that emergency medical services should be provided and managed at the county rather than State level, consistent with standards to be adopted by the Department of Health for a statewide system, deletion of all references to a "state" system in Chapter 321, Hawaii Revised Statutes, relating, in pertinent part, to emergency medical services, and inserting in lieu thereof the term "statewide" to apply to such a system.
- (3) Amending §21-222 to add new definitions for "emergency medical services", "direct cost", and "indirect cost", and amending the definition of "state system" to read "statewide system".
- (4) Inasmuch as the provision of emergency medical services is a matter of statewide concern, your Committee has amended this bill to provide that the Department of Health shall coordinate and integrate, rather than administer and maintain, a statewide system of emergency medical services for serving the residents of each county.

- (5) Amending §321-224 to require the Department of Health to establish standards for the statewide system; determine, in consultation with the advisory committee, the levels of emergency medical services for each county; approve training programs for basic life support and advanced life support personnel; and establish and collect reasonable fees for emergency medical services.
- (6) Amending §321-225 by requiring the advisory committee to advise the Department of Health upon request of the department, and by making the committee's functions discretionary, including the new function of advising the Department of Health in determining county levels of emergency medical services.
- (7) Amending §321-226 by deleting the requirement that standards established by the Department of Health for emergency medical services meet federal guidelines or standards.
- (8) Amending §321-229 to require the Department of Health to approve training programs for basic life support and advanced life support personnel, and to allow the Department to contract for such training with other schools approved by the Department of Health.
- (9) Amending §321-232 to clarify that the Department of Health shall establish reasonable fees for services rendered by any private agency which is under contract with the State or any county for the provision of such services; and to add a new subsection requiring all ambulance technicians to fully complete, as practicable, the ambulance report form, including the billing and collecting components, to facilitate the collection of fees.
- (10) Amending the grant-in-aid provision to provide that each county shall receive, subject to legislative approval, a State grant-in-aid equal to the direct and indirect operational costs of the emergency medical services for fiscal year 1983 and thereafter; and to provide that for fiscal year 1983 the Department of Health may contract with private agencies for emergency medical services for the counties of Maui and Kauai; and to further provide that the counties of Maui and Kauai shall not receive such a grant-in-aid for fiscal year 1983.
- (11) Inserting a severability clause.
- (12) Consistent with Department of Health testimony, providing that the rules and regulations presently governing emergency medical services shall remain in effect until the adoption of new rules consistent with the provisions of this bill.

Your Committee has also made technical, nonsubstantive amendments to this bill for purposes of style and clarity.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2955-82, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2955-82, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Aki, Honda and Kunimura.

SCRep. 722-82      Health on S.B. No. 2470-82

The purpose of this bill is to authorize the department of health to provide services to veterans who are or were residents of this State and who served in Vietnam, Cambodia, or Laos during the Vietnam conflict and who have possibly been exposed to the chemical defoliant known as "agent orange". Your Committee is in accord with the purpose of this bill as amended by S.B. No. 2470-82, S.D. 2, which, respectively, limited the scope of this bill to include residents who were not necessarily in the armed forces of the United States, but nonetheless were in Vietnam, Cambodia, or Laos during the Vietnam conflict for whatever reason.

Your Committee finds that there is no question as to the toxicity of agent orange, although no substantive studies have been done to confirm a cause-and-effect relationship between agent orange and the effects reported. The crucial question is whether the company which produced the herbicide is responsible or the federal government who commissioned its use. Neither one wishes to take responsibility. In fact, the federal



government is no longer providing fat tissue biopsies designed to determine whether veterans do in fact have positive residues of the herbicide agent orange.

Your Committee is acutely aware that legal and moral responsibility for the effect of agent orange on Vietnam era veterans clearly lies with the federal government. Your Committee is also aware that the State is fast approaching a time of fiscal constraints. However, we cannot sit idly by while the federal government continues to ignore the very real and human tragedy surrounding these veterans. They are not asking for compensation by the State. All that is asked is testing for confirmation of exposure to herbicide poisoning, genetic counseling and screening, and epidemiological studies. The bill provides that should the federal government accept its clear responsibility, the state program may be discontinued.

Your Committee further finds interest or support by the Vet Center and the University of Hawaii in this matter of public importance.

Your Committee has clarified the purpose of this bill by amending the definition of veteran and creating a new definition of residents who may or may not have been in the armed forces of the United States but who were, nonetheless, in the affected countries.

Your Committee has included a provision requiring the cooperative effort of the University of Hawaii, its pertinent schools or programs, and the department of health, to participate in medical suffering from the effects of chemical defoliants.

Your Committee has amended S.B. No. 2470-82, S.D. 2, by appropriating the amount of \$50,000 for fiscal year 1982-83.

Your Committee on Health is in accord with the intent and purposes of S.B. No. 2470-82, S.D. 2, as amended herein and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2470-82, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Aki, Honda, Ige, Kunimura and Wong.

SCRep. 723-82      Health on S.B. No. 2926-82

The purpose of this bill is to provide funding for the continued operation of nine substance abuse programs for the last quarter of fiscal year 1981-1982.

According to testimony received from the Department of Health, the Statewide Services Grant for community-based drug abuse treatment services which the State currently receives from the National Institute on Drug Abuse will terminate on March 31, 1982. The State has appropriated the matching share of this grant for the past four years, including approximately \$85,521 remaining for the period April 1, 1982 through June 30, 1982.

Passage of this bill will help to minimize the severe impact of the loss of Federal drug treatment funds to the State.

Your Committee has amended S.B. No. 2926-82, S.D. 1 by adding the phrase "for the purpose it was" after the word "funds" on page 2, line 6. This bill was also amended by changing the word "release" on page 2, line 12 to "re-appropriate" and by changing the word "may" to "shall" on page 2, line 18. This bill was further amended to include a listing of each agency and the amounts appropriated for each.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2926-82, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2926-82, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Aki, Honda and Kunimura.

SCRep. 724-82      Health on S.B. No. 2919-82

The purpose of this bill is to allow system wide financing of special purpose revenue bonds issued to assist health care facilities.



The present language casts doubt on the ability of a Hawaii health care facility to participate in system wide financing.

Your Committee believes that system wide financing provides enhanced security for the bonds and would therefore result in lower interest rates on such bonds.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2919-82, 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 except Representatives Aki, Honda and Kunimura.

SCRep. 725-82 Health on S.B. No. 2978-82

The purpose of this bill is to provide for research and development of a clinical interferon-biological response modifier program for the treatment of selected patients with cancer and microbial disease. A temporary Hawaii cancer commission under the department of health would be created to oversee research activities and administer the Hawaii cancer fund.

In Hawaii, approximately 1,000 people die from cancer each year. It not only destroys people, but their entire families as well. In many cases, standard cancer treatments have been ineffective leaving cancer patients with no other recourse and little or no hope of surviving.

Your Committee finds that new developments in cancer research and anti-cancer agents in recent years offer greater hope for cancer victims. One anti-cancer agent which appears promising is the virus-fighting substance called interferon, a biological response modifier.

Interferon has been shown to stimulate the activity of natural killer cells which are increasingly implicated to play an important role in our bodys' defense against cancer and virus.

Although interferon treatment for cancer is a recent development, your Committee believes that it offers cancer patients a viable treatment option and renewed hope.

Your Committee has amended this bill by deleting sections 2, 3, and 4 relating to the Hawaii Cancer Commission and by changing sections 5, 6, and 7 to respectively read sections 2, 3, and 4.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2978-82, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2978-82, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Aki, Honda and Kunimura.

SCRep. 726-82 Health and Judiciary on S.B. No. 2682-82

The purpose of this bill is to amend Section 334 E-2 of the Hawaii Revised Statutes to ensure that all psychiatric facilities afford in-patients certain rights.

Currently, licensed psychiatric facilities have the option of affording in-patients certain rights which are qualified by reasonableness, in view of the circumstances and the availability of resources. This bill would make it mandatory for all psychiatric facilities to afford all in-patients these rights and authorizes the patient's legal guardian or representative to exercise these rights on behalf of the patient.

The bill also provides for six additional patient rights and requires the department of health or the office of the ombudsman to investigate grievances submitted by any patient in a psychiatric facility.

Your Committees have amended S.B. No. 2682-82, S.D. 1 by deleting "act as an ombudsman to" on page 5, line 19 and by adding "and be posted in a conspicuous manner and accessible place" after the word "section" on page 6, line 2.

Your Committees on Health and Judiciary are in accord with S.B. No. 2682-82, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2682-82, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Aki, Blair, Dods, Honda, Kawakami and Kunimura.

SCRep. 727-82 Higher Education on S.B. No. 2347-82

The purpose of this bill is to provide the University of Hawaii Board of Regents the authority to waive all tuition fees for any veteran currently enrolled as a student working toward a degree on any University of Hawaii campus provided the student is a resident of Hawaii and provided that the tuition waiver shall be applicable only to veterans no longer receiving "GI Bill" educational benefits.

It is well recognized that the "GI Bill" educational program since World War II has paid for itself countless times in the higher socioeconomic contributions of those who made use of the program as contrasted to those who had no such equal educational opportunities.

This bill is directed at veterans of the Vietnam Conflict whose benefits are expiring under the federal educational support legislation but who need assistance to finish the degree programs they are currently pursuing. Tuition waivers while not sufficient to support students may make the difference for many veterans living on a limited income while trying to get a college degree.

The University of Hawaii testified that it had no institutional objection to the bill. However, the University felt it was worthwhile to point out to the Legislature that the bill raised a public policy question: specifically, an issue of State/Federal responsibility in the sense that the State would be providing a benefit to individuals for service they had rendered to the federal government.

The federal government may preempt the State in the authority to decide to initiate and conduct actions such as Vietnam but that authority does not preclude the State from acting compassionately toward those who served in that arena or from rewarding them for that service.

Your Committee has amended the bill by deleting the words "an undergraduate" and replacing those words with "a" and by clarifying the reference to the federal statute involved.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2347-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2347-82, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives D. Hagino, Ige, Takamine, Takitani and Monahan.

SCRep. 728-82 Water, Land Use, Development and Hawaiian Affairs and Agriculture on S.B. No. 2434-82 (Majority)

The purpose of this bill is to establish and fund an agricultural land study commission to examine the agricultural and land use policies of the State, and to advise the Legislature in the development of an agricultural land classification system to be used to identify important agricultural lands pursuant to Article XI, section 3 of the Constitution of the State of Hawaii.

Your Committees find that this bill would establish an eleven member commission which will be appointed by the Chairman of the Board of Agriculture with the concurrence of the President of the Senate and the Speaker of the House of Representatives.

Your Committees, upon further consideration, have amended the bill fundamentally. The bill in its amended form:

(1) requires the Board of Agriculture to adopt the Agricultural Lands of Importance to the State of Hawaii system (ALISH);

(2) requires all public agencies to use the ALISH system to identify important agricultural lands of the State and conduct public policy with that identification as a base;

(3) requires the Board of Land and Natural Resources to consider ALISH criteria prior to disposition of public lands; and

(4) replaces the Land Study Bureau Land Classification System with the ALISH in Chapter 205-4.5, Hawaii Revised Statutes, relating to permissible uses within agricultural districts.

Your Committee on Water, Land Use, Development and Hawaiian Affairs and your Committee on Agriculture are in accord with the intent and purpose of S.B. No. 2434-82, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2434-82, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Baker and Monahan.

(Representatives Kawakami and Matsuura did not concur.)

SCRep. 729-82      Water, Land Use, Development and Hawaiian Affairs and  
Agriculture on S.B. No. 2971-82

The purpose of this bill is to allow the State, through its Board of Land and Natural Resources, to receive, in trust, property from Puna Sugar Company, Limited, and develop the same into agricultural park lots. Employees of Puna Sugar Company who have been terminated by the shutdown of the plantation's agricultural operations would be eligible to receive fee simple title to lots of not less than five acres in size.

Your Committees find that in the past, legislation have been enacted to provide relief to specific areas. Puna, because of the 1855 volcanic eruption, Hilo and adjacent areas, because of the 1960 tsunami, are examples. Such precedence can be the basis for specific legislation to provide relief to the economically distressed employees of the sugar company. Your Committees find that the bill would remove county control over the subject lands and permit the conveyance of fiveacre fee simple lots to the affected employees. This would enable the affected employees to save considerable amounts in construction of roads and other improvements to the property. Any savings effected by the affected sugar employees which does not result in direct or indirect costs to the State or county should be encouraged.

Your Committees also find that the bill would create a trust for the purpose of the bill to be administered by the Board of Land and Natural Resources for the benefit of the affected employees. It is anticipated that this would lower the taxes on the property to a considerable extent, as well as provide a degree of security to the employees.

Your Committees have amended the bill, however, to add a statement that the Board shall recoup its direct and indirect costs when the lots are conveyed to the affected employees.

Your Committees have also amended the bill by adding a new Section 7 to specify that the provisions of the bill shall expire five years after the bill is enacted into law. This will serve to keep the processing of the various transactions moving on a timely basis.

Subsequent sections have been renumbered.

Your Committees on Water, Land Use Development and Hawaiian Affairs and on Agriculture are in accord with the intent and purpose of S.B. No. 2971-82, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2971-82, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Morioka and Monahan.

SCRep. 730-82      Higher Education on S.B. No. 906 (Majority)

The purpose of this bill is to create a revolving fund for libraries administered by

the University of Hawaii. Revenues for this fund will be derived from fines and fees for lost, overdue, or damaged books, serials, and periodicals and such other sources as coin-operated photocopy machines and reprography and educational media services provided by the libraries and media services. Allowable expenditures from this fund shall include such items as repair or replacement of lost, damaged, stolen, or outdated books and periodicals, and to support other direct library services and activities.

Your Committee finds that losses experienced by the various University system's libraries through lost, damaged, or stolen books and periodicals have not been properly addressed. The current approach to this problem is based on a deterrence theory as represented by traditional fines and fees, and symbolized more recently by electronic detector devices. There is no question as to the effectiveness of the present deterrence program but it does not, however, provide for repair or replacement costs.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 906, S.D. 2 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Ige, Takamine and Monahan.  
(Representative Sakamoto did not concur.)

SCRep. 731-82          Judiciary on S.B. No. 2642-82

The purpose of this bill is to transfer administrative responsibility for the Juvenile Justice Interagency Board (JJIB) from the State Law Enforcement Planning Agency (SLEPA) to the Department of the Attorney General, and to increase the number of board members from seven to nine.

Present law places the JJIB within the SLEPA for administrative purposes; however, SLEPA is scheduled to cease operations on March 31, 1983. This bill provides for a timely and much-needed transfer of administrative responsibility from SLEPA to the Department of the Attorney General.

The JJIB was originally established by legislative action in 1980 to provide for optimum coordination and cooperation within the juvenile justice system of the State. Agency activities to date include the institution of a statewide network to identify and resolve interagency issues and problems on county levels and the initiation of a juvenile justice information system study.

Your Committee feels that the performance of the JJIB has been commendable and warrants its continued existence and expansion in accordance with legislative guidelines set forth at the time of its inception.

Currently, the Board is comprised of seven members. Your Committee finds that an increase in membership is needed to accommodate the agency's need for greater manpower and input by adding two new members, as proposed by the bill, and by creating a position for the Director of the Office of Children and Youth as an ex officio member. It is further felt by your Committee that the purposes of the JJIB will best be served by allowing the Governor to retain full authority in the appointment of Board members, rather than requiring that Board membership include a resident from each county in the State.

In accordance with its findings, your Committee has amended the bill to provide that ten (rather than nine) members serve on the Juvenile Justice Interagency Board, including the Director of the Office of Children and Youth as an ex officio member. Your Committee has further amended the bill to delete the requirement that board membership include a resident member from each county.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2642-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2642-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 732-82          Judiciary on S.B. No. 2376-82

The purpose of this bill is to delete reference to Section 707-740, Hawaii Revised

Statutes, in Section 701-108, relating to time limitations for certain types of prosecutions.

Section 707-740 was repealed by Act 213, Session Laws of Hawaii 1981. This bill updates statutory provisions to conform with Act 213.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2376-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 733-82          Judiciary on S.B. No. 2366-82

The purpose of this bill is to change the date for the initial reporting of campaign spending deficits and surpluses over \$250.

Present law requires that the first semi-annual report on campaign spending deficits and surpluses be filed by the fifth day after the last day of the election year. This bill would change the deadline date for these reports to the twentieth day after the last day of the election year.

Your Committee finds that bank statements and other financial statements are frequently unavailable until the end of January. In order to assure more accuracy in the required semi-annual campaign spending reports, your Committee has amended the bill to extend the filing deadline for initial reports to the thirtieth day after the last day of the election year.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2366-82, S.D. 1 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2366-82, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 734-82          Judiciary on S.B. No. 2475-82

The purpose of this bill is to allow a person to change his name without having to comply with the requirements of publication in a newspaper, recordation in the Bureau of Conveyances, and report to the Registrar of Births when it is determined that such compliance is not necessary in order to protect the person desiring the name change.

The bill provides that a person desiring to change his or her name may do so by filing, with the petition, an affidavit executed by a prosecuting attorney of this State showing that for that person's protection, the requirement of publication in a newspaper of general circulation in the State, the recordation in the Bureau of Conveyances, and the report to the Registrar of Births shall not be necessary.

The bill further provides for a new section entitled "Effect of change" but maintains the substantive language of the prior law. This provision makes for a clearer understanding of the procedure and effect of a name change.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2475-82, 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. 735-82          Judiciary on S.B. No. 2520-82

The purpose of this bill is to require a notary public to file a copy of his commission, an impression of his seal, and a specimen of his signature with the circuit court clerk of the circuit in which the notary public resides and to make optional the filing of these documents in any other circuit. This bill also changes the date on which a notary public must file his records with the circuit court from June 30 to July 1 of each year.

Section 456-4 of the Hawaii Revised Statutes currently requires a notary public to file the specified documents with the clerk of the circuit court of each judicial circuit.

This practice has proven to be unnecessary because many notaries actually notarize documents only in the circuit in which they reside. This bill would eliminate fees imposed on these notaries by the judicial circuits where they do not practice, and would assist in reducing unnecessary paperwork for the respective circuit court clerks.

Section 456-16 of the Hawaii Revised Statutes currently requires that the records of the notary public be filed on June 30 of each year. In changing the filing date to July 1, this bill would provide for better processing by conforming the filing date with the closing of each fiscal year.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2520-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 736-82          Finance on S.B. No. 2947-82

The purpose of this bill is to extend the Filipino 75th Anniversary Commission for two additional years.

Act 181, Session Laws of Hawaii Regular Session 1977, provides that the Commission shall not continue beyond December 31, 1981. This bill extends the existence of the Commission until December 31, 1983.

Your Committee generally supports this proposal.

Your Committee has amended this bill to provide that unused funds of the Commission remaining on December 31, 1983 shall become a realization of the state general fund.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2947-82, S.D. 1 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2947-82, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 737-82          Judiciary on S.B. No. 2190-82

The purpose of this bill is to clarify that the position of the director of the Hawaii Criminal Justice Information Data Center is exempt from the civil service system, and to change the name of the Center to delete the redundancy that presently exists in its name.

On July 1, 1981, the Hawaii Criminal Justice Information Data Center was transferred from the Judiciary to the Department of the Attorney General for administrative purposes, as required by Act 269 enacted by the Legislature in 1980.

Act 128 enacted in 1981 included provisions for the orderly transfer of the Center's personnel from the Judiciary to the Department of the Attorney General. According to the testimony of the Attorney General's office, following the passage of Act 128, the Department of Personnel Services determined that because Hawaii Revised Statutes section 846-2 did not specifically exempt the data center's director from civil service status, the position had to be filled through the civil service system. However, when the data center was attached to the Judiciary, the interim director had been appointed on an exempt basis. Your Committee agrees that the legislative intent in passing Act 128 should be clarified through this bill to keep the director's position exempt from civil service status.

Your Committee further agrees that the statutory name should be changed from "Criminal Justice Information Data Center" to "Criminal Justice Data Center," because "information" seems redundant of the word "data."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2190-82, 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. 738-82            Judiciary on S.B. No. 2345-82

The purpose of this bill is to empower the family court to terminate parental rights in cases where the child has been removed from the parent's custody by court order because of physical or emotional deprivation or abuse of the child.

Your Committee finds that present law, Section 571-61, Hawaii Revised Statutes, (Termination of Parental Rights), does not permit termination of parental rights of children who have been physically or emotionally abused. The courts' present authority is limited to cases of neglect or abandonment.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2345-82, 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. 739-82            Judiciary on S.B. No. 2379-82

The purpose of this bill is to give judges discretion to sentence a person to a term of imprisonment to run concurrently or consecutively.

Presently, the law mandates a judge to sentence a person to terms of imprisonment to run concurrently, giving no discretion to judges to impose consecutive sentences. This requirement negates the deterrence of punishment in the case of a multiple offender or one who commits an offense while subject to an undischarged term of imprisonment. The bill provides that the judges have discretion to sentence a person to consecutive terms of imprisonment. Your Committee believes that judges should be allowed to exercise discretion in invoking consecutive terms of imprisonment in instances where the defendant committed multiple or subsequent offenses.

The bill further provides for the deletion of current law dealing with consecutive terms of imprisonment for escape and crimes committed while imprisoned. The provisions of the deleted section are essentially covered by the specifications of this bill granting discretionary power to judges in imposing consecutive or concurrent sentences.

Your Committee also heard testimony that from 1976 to 1980, there were 151 cases of assaults on correctional officers by prisoners. Your Committee believes that correctional officers must be provided with protection in the performance of their duties, and that prisoners who commit the crime of assault should be subject to maximum penalties as a deterrent to such assaults. Accordingly, your Committee has amended the bill to provide that the maximum prison term be imposed, consecutive to any previous maximum term, for prisoners who are convicted of the crime of assault in the first degree.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2379-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2379-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 740-82            Consumer Protection and Commerce on S.B. No. 2137-82

The purpose of this bill is to limit no-fault automobile insurance coverages provided to public assistance recipients at no charge to the vehicles owned solely by those public assistance recipients.

Your Committee finds that numerous individuals not eligible for public assistance have been receiving no-fault automobile insurance coverages from the public assistance motor vehicle insurance program by assigning partial ownership of their vehicles to an eligible public assistance recipient. This bill would eliminate such abuses and help to reduce the costs of the program.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2137-82 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.



SCRep. 741-82      Consumer Protection and Commerce and Transportation on  
S.B. No. 2334-82

The purpose of this bill is to provide a penalty section for violation of any provision of Chapter 290, Hawaii Revised Statutes, relating to abandoned vehicles.

Under present law, there are no penalties imposed under this chapter for infractions committed by any tow company, private property owner, or any of their representatives. This bill provides a fine for violation of this chapter of not less than \$25 nor more than \$500.

Your Committees have amended the bill by increasing the minimum penalty from \$25 to \$50.

Your Committees on Consumer Protection and Commerce and Transportation are in accord with the intent and purpose of S.B. No. 2334-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2334-82, H.D. 1, and placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives  
Tungpalan, Waihee and Ikeda.

SCRep. 742-82      Judiciary on S.B. No. 2467-82

The purpose of this bill is to amend Sections 134-7 and 134-8, Hawaii Revised Statutes, relating to ownership of firearms and ammunition.

This bill would prohibit persons against whom a complaint has been filed for the commission of a felony or any violent crime, or for the illegal sale of any drug, from owning or possessing firearms or ammunition. Currently, a person under indictment is prohibited from owning or possessing a firearm.

The bill also amends Section 134-8, Hawaii Revised Statutes, to prohibit the ownership, possession, sale or transfer of certain types of ammunition, designed primarily to penetrate metal or pierce protective armor.

Your Committee is aware that technological advancements have made available ammunition, commonly known as "KTW bullets", which are designed and noted for its high penetration capabilities. These bullets have the capability of piercing through several slabs of metal while retaining their lethality. These bullets are also very susceptible to ricocheting or exiting a person and fatally wounding another. Your Committee is also aware of the availability of bullets which are designed to explode upon impact.

Your Committee feels that these types of ammunition pose a serious threat to the safety of the general public and serve no useful purpose for the target shooter or hunter and should, therefore, be banned.

Your Committee has amended the bill to delete in its entirety section one of the bill which prohibits a person under complaint for a felony, crime of violence or a drug offense from owning or possessing a firearm.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2467-82, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2467-82, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 743-82      Culture and the Arts and Judiciary on S.B. No. 2993-82

The purpose of this bill is to designate April 15 of each year as "Father Damien Deveuster Day," provided that this day shall not be construed to be a state holiday.

Your Committees have recognized and have determined that the hard-working efforts of Joseph Deveuster, known to one and all as Father Damien, should be honored by

setting aside April 15 as a day of remembrance.

Your Committees further recognize that the story of Father Damien is one of self-sacrifice and one of service to an exiled people who had suffered from the most feared and debilitating disease known to mankind. In the past century, his life and work have inspired and touched many people in Hawaii and throughout the world. Recognition of this day will insure that the people of Hawaii shall never forget the deeds and life of Father Damien.

Your Committees on Culture and the Arts and Judiciary are in accord with the intent and purpose of S.B. No. 2993-82 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 744-82      Finance on S.B. No. 2868-82

The purpose of this bill are to (1) exclude for income tax purposes any intangible income (such as dividends and interest) received by any nonresident beneficiary residing in another state from any trust having a situs in the State, and (2) allow an income tax credit to any resident beneficiary of a trust having a situs in another state for any income taxes paid to such state on any income received from other than intangibles.

Currently, section 235-4, Hawaii Revised Statutes, provides that nonresidents are taxed on income derived from sources in the State. There is no difference in taxation irrespective of whether the beneficiary is a resident or nonresident of this State.

With respect to income derived from estates and trusts having a situs outside the State, section 235-55, Hawaii Revised Statutes, presently provides a tax credit for Hawaii residents against Hawaii income taxes for taxes paid by the resident taxpayer to another state. For any nonresident beneficiary of a trust or estate having a situs in the State, however, no tax credit against Hawaii income taxes is permitted. As a result, there is a strong possibility that the nonresident beneficiary will be taxed twice. This bill would eliminate the tax inequity resulting from the double taxation of nonresident beneficiaries.

Your Committee is in general agreement with the intent of this bill but believes that the exclusion should be limited to a beneficiary of a revocable trust and your Committee has amended this bill accordingly.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2868-82, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2868-82, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 745-82      Employment Opportunities and Labor Relations on S.B. No. 2528-82 (Majority)

The purpose of this bill is to amend Section 386-41, Hawaii Revised Statutes, to extend funeral expenses to a maximum of ten times the weekly benefit rate and would extend burial expenses to five times the maximum weekly benefit rate.

Your Committee finds that the present law provides benefits for funeral expenses not to exceed \$1,000 and burial expenses not to exceed \$500. The last amendment to this section for funeral and burial expenses occurred in 1971 and has remained at this level ever since. The increase proposed in this bill will allow for proper services, which are a necessity, and will bring the allowances more in line with the current average cost of a funeral and burial.

Your Committee received testimony from the Funeral Directors Association of Hawaii which indicated that the present minimum cost for funeral and burial exceeds the maximum amount that could be allotted according to Section 386-41 as it presently reads.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of S.B. No. 2528-82 and recommends that it pass Second Reading

and be placed on the calendar for Third Reading.

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

SCRep. 746-82      Public Employment and Government Operations on S.B. No.  
2189-82

The purpose of this bill is to change the designation of the number two position in the attorney general's office from "assistant attorney general" to "chief deputy attorney general". The change is implemented by amending Sections 28-8 and 28-10, Hawaii Revised Statutes. Such a change of designation will clarify occasional misunderstandings which arise when Hawaii's "assistant attorney general" represents the State in other jurisdictions which designate their counterpart as a "deputy attorney general" and other attorneys on their staff as "assistants".

Your Committee heard testimony on this bill from the attorney general's office requesting that the word "chief" be changed to the word "first". This would clarify a distinction between a division head and the number two person in the office. The Committee has amended the bill to reflect the Attorney General's request.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2189-82, S.D. 1 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2189-82, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 747-82      Ocean and Marine Resources on S.B. No. 561

The purpose of this bill is to permit sand mining by the state and county governments in water less than 30 feet deep or within 1,000 feet seaward from the shoreline to replenish sand at public beaches by amending Section 205-33(a), Hawaii Revised Statutes.

Present law generally prohibits the removal of sand, coral, rocks, soil, or other beach compositions for any purpose, except for reasonable domestic, non-commercial use, within the shoreline area or within 1,000 feet seaward or at depths less than 30 feet.

Testimony before your Committee by the Chairperson of the Department of Land and Natural Resources; Mr. D. Cox of the University of Hawaii at Manoa Environmental Center; Mr. S. Carl of the City and County of Honolulu, Department of Parks and Recreation; Mr. Dave Parson of the State Department of Transportation; and Ms. Lola Mench of the Sierra Club; strongly support or express general accord with the intent and purposes of this bill. Your Committee recognizes the concerns expressed by Attorney Ronald Albu; Mr. John Morgan of Kualoa Ranch; and Mr. Calvin Ho, speaking as a concerned citizen, who had testified against this bill.

Your Committee has duly noted and considered the various recommendations and concerns expressed at the public hearing held on March 29, 1982. Your Committee, upon consideration, has amended the bill as follows:

- (1) Pages 1 and 2, lines 16 and 18, respectively, delete "ocean" and insert "sea".
- (2) Page 3, line 2, add phrase "Hilo Bay, Waikiki, Ala Moana and Kailua beaches" after the word "at".

Your Committee has also amended the bill by expanding the requirements that the public hearing shall be preceded by public notice of not less than 30 days before the hearing and that public notice be published on three separate days in a newspaper of general circulation in the state or county affected by the proposed project.

Your Committee has also amended this bill by deleting the language of paragraph (3) and by inserting the new language "The clearing of sand from existing drainage pipes and canals and from the mouths of streams, provided that the sand shall be placed on adjacent beaches unless such placement would result in significant turbidity".

Your Committee has further amended this bill by making other technical, non-substantive amendments to the bill for the purpose of style and clarity.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of S.B. No. 561, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 561, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Blair, Hashimoto, Kawakami and Narvaes.

SCRep. 748-82      Finance on S.B. No. 2513-82

The purpose of this bill is to require every person who operates an electric light or power business as a public utility to pay to the director of finance of the county in which it operates 2-1/2 per cent of the gross receipts. This bill would provide for a uniform franchise tax rate of 2-1/2 per cent for every county throughout the State of Hawaii.

Under present law, utilities must pay to the counties in which it operates an amount equal to 2-1/2 per cent of its gross revenues as a franchise tax, unless the tax is governed by a prior franchise specifying a different sum. Maui Electric Company is the only utility within this category and pays a tax of one per cent under its preexisting franchise. This bill would standardize at 2-1/2 per cent the rate of franchise tax payable to the counties.

Your Committee has amended this bill to clarify the term "gross receipts", to add a proviso to the effective date section to make the bill applicable to gross receipts in 1984 and thereafter, and to make other clarifying changes.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2513-82, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2513-82, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 749-82      Finance on S.B. No. 2765-82

The purpose of this bill is to require the successful bidder for an in-bond contract at Honolulu International Airport (HIA) to post a bond equal to six months of the highest rental guaranty. The imposition of a higher bonding requirement is necessary in order to give the State Department of Transportation sufficient time to prepare for the award of major concession contracts and assure continued revenues between the termination of one contract and the award of another contract for a replacement concession.

Your Committee has amended the bill to make nonsubstantive changes.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2765-82, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2765-82, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 750-82      Finance on S.B. No. 397 (Majority)

The purpose of this bill is to exempt from the use tax all barges and barge equipment.

Under present law, leased and purchased oceangoing vessels engaged in intrastate operations are exempt from the use tax pursuant to Act 144, SLH 1974. This bill extends the exemption to include barges and barge equipment in connection with the vehicles or barges for passenger or goods transportation from one point to another within the State.

Your Committee has amended this bill to correct drafting errors and to change the effective date.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 397, 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. 397, S.D. 2, H.D. 2.

Signed by all members of the Committee.  
(Representatives G. Hagino, Levin and Okamura did not concur.)

SCRep. 751-82          Finance on S.B. No. 2269-82

The purpose of the bill is to make an appropriation from the general fund to the office of the Attorney General to finance the training programs of the state and county criminal justice agencies.

Your Committee finds that in order to implement an effective program to combat crime, the various components of the criminal justice system must have persons who are highly skilled and specially trained.

Your Committee has increased the sum appropriated to \$300,000, as an amount it regards as sufficient to finance a successful training program.

Your Committee has deleted the office of the state public defender as an agency eligible to receive funds for training of personnel as your Committee believes that the objectives of the office of the public defender is counter to the training of those agencies involved in prosecuting programs.

Your Committee has amended Section 3 of the bill by adding language to clarify the bill. It enables the Attorney General to develop a program and allocate and award funds for the purpose of this bill.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2269-82, 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. 2269-82, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 752-82          Finance on S.B. No. 2816-82

The purpose of this bill is to facilitate the implementation of Chapter 42, Hawaii Revised Statutes, (Act 207, Session Laws of Hawaii 1981), which establishes standards for the making or awarding of grants, subsidies, and purchases of service by the State, by making a number of amendments to that Chapter.

The general intent of the amendments made by this bill is to liberalize some of the restrictions and conditions imposed on applicants and recipients of grants and subsidies from the State and on providers of services under a purchase of service contract with the State.

Your Committee disagrees with the proposals to allow individuals to qualify as applicants and to allow waiver of the one year's experience requirement. Your Committee has amended this bill by deleting these proposals.

Your Committee has also made other non-substantive amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2816-82, 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. 2816-82, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 753-82          Public Employment and Government Operations on S.B. No. 103

The purpose of this bill is to bring the Hawaii Civil Service Law, Chapter 76, Hawaii Revised Statutes, in conformance with the principle of equal rights.

Testimony presented indicated that by including marital status in the statute, the bill would create a new protected class of discrimination. Presently the statutes identifies sex, age, religion, color, ancestry, or politics as prohibited basis of discrimination. However, your Committee believes that the existing prohibition of sex adequately provides the necessary safeguards. Therefore, to include marital status as a form of discrimination does not, on its own, demonstrate the need for a new protected class.

Further, the Committee is of the opinion that the existing reference to "sex" as a limitation on the applicant group as a bona fide occupational qualification should be retained in the bill.

The following changes have been made to the bill to reflect the intentions of your Committee:

1. The proposed addition of "marital status" to the bill has been deleted.
2. "Sex" as a limitation on the applicant group as a bona fide qualification has been retained.

As to the housekeeping measure to change the masculine gender to the neuter gender, in the bill, the Committee concurs.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 103, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 103, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 754-82          Employment Opportunities and Labor Relations on S.B. No. 2523-82

The purpose of this bill is to establish December 31 as the annual injury cost reporting date instead of bi-annually on June 30 and December 31. It also requires the "stretching out" of assessment notices from May 1 to August 15 with payment due on September 30 instead of June 30.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of S.B. No. 2523-82, S.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 755-82          Consumer Protection and Commerce on S.B. No. 594

The purpose of this bill is to improve the regulation of cemeteries and mortuaries.

This bill amends Chapter 441, Hawaii Revised Statutes, by:

- (1) Requiring the submission of an annual audited financial statement by any cemetery operating a perpetual care cemetery and by any mortuary authority or pre-need funeral authority which engages in pre-need sales or holds money in trust for future funeral services. Presently, any pre-need funeral or cemetery authority operating a perpetual care cemetery is subject to an annual inspection by the Director of the Department of Regulatory Agencies ("DRA") of its books, records and papers. This bill would provide the DRA with more accountability from the cemetery industry and is a reasonable alternative to increasing the bond requirements of cemetery and mortuary authorities;
- (2) Deleting reference to the licensure of mortuaries in appropriate sections. The nature of a mortuary's business is different from that of a cemetery or pre-need funeral authority. Unlike a cemetery or pre-need funeral authority, the business of a mortuary does not entail risks of misappropriation of funds, since a mortuary provides services and products prior to billing its customers. Furthermore, substantial safeguards are provided by the disclosure requirements under section 441-22.5 and 441-22.6;
- (3) Specifying that only mortuaries holding more than \$5,000 in pre-need funeral funds need post a bond. Currently, all mortuary authorities are required to post a \$50,000 bond. This bill would only require mortuaries with more than \$5,000 in pre-need funeral funds to post a bond;
- (4) Requiring cemetery, pre-need funeral, and mortuary authorities to obtain an annual independent actuarial study of their pre-need trust funds. Presently, the DRA must depend solely on bonds posted by the industry to insure that proper service is being rendered by the industry. This amendment, along with an annual audit of trust funds, would provide the Director of the Department of Regulatory Agencies the

needed information to ensure the financial integrity of cemetery and mortuary authorities;

(5) Providing trust administrators with the authority to administer pre-need and perpetual care trust funds. Presently, administrators are not required to inquire into the propriety of the expenditures made by a cemetery authority regarding perpetual care of pre-need services. This bill would give administrators the authorization and responsibility to inquire into the propriety of cemetery authority expenditures to protect the public from the potential economic harm resulting from mismanagement of pre-need trusts and perpetual care funds;

(6) Deleting the provision giving cemetery authorities the right to approve perpetual care fund investments. Presently, an administrator may need approval from its respective cemetery or mortuary authorities to invest funds. This bill would provide administrators with the authority to act independently of cemetery or mortuary authorities to insure not only the best possible yield on investment funds, but to also insure the safety of the capital to be invested;

(7) Requiring trust administrators to determine whether the income from trusts should be added to the corpus. Presently, the law is silent regarding the disposition of income from trusts. This bill would allow the trust administrator, based on the findings of its annual audit and actuarial study to determine whether the income from trusts should be added to the corpus.

Your Committee has amended the bill by deleting the former Section 8. Your Committee heard testimony that requiring the trust administrator to actively inquire into the propriety of expenditures of the trust fund will impose an administrative burden and the resulting cost will not be in the best interest of the public.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 594, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 594, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives  
Honda, Kawakami and Liu.

SCRep. 756-82      Employment Opportunities and Labor Relations on S.B. No.  
2527-82 (Majority)

The purpose of this bill is to entitle a "hanai child" the same rights as other children enumerated in Section 386-2 HRS.

This bill was recommended by the Workers' Compensation Program Commission. The Commission felt that the unique tradition of hanai warranted legislation that would protect the rights of these children.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of S.B. No. 2527-82, 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.  
(Representative Anderson did not concur.)

SCRep. 757-82      Finance on S.B. No. 553 (Majority)

The purpose of this bill is to remove the restriction which allows tax credits only for heat pumps in home water heaters so that nonresidential users can participate in the tax credits for such devices. Additionally, the bill includes a ceiling of \$3,000 on the tax credit.

Your Committee believes that the present 10 per cent tax credit should also be retained and your Committee has restored this 10 per cent rate.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 553, 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. 553, S.D. 2, H.D. 2.

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



SCRep. 758-82      Judiciary on S.B. No. 2550-82

The purpose of this bill is to provide that firearm registration forms shall be uniform throughout the State of Hawaii. Provisions also include waiver of the ten-day waiting period in cases where the person has previously obtained permits subject to the ten-day waiting period, and for firearm dealers licensed by the United States Department of the Treasury.

Your Committee has amended the bill by deleting the requirement that a person must register the quantity and class of ammunition in his possession. Your Committee finds that ammunition is of an expendable nature and Federal record keeping of handgun ammunition already exists.

The bill has been further amended to delete from chapter 134 the requirement that a person procure a hunting license in order to use a firearm while hunting or target shooting. The requirement that a minor acquire a hunting license and a permit in each county where he hunts has also been deleted from chapter 134.

Your Committee believes that the above requirements are unnecessary and already covered under other provisions of the law.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2550-82, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2550-82, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 759-82      Consumer Protection and Commerce on S.B. No. 2646-82

The purpose of this bill is to amend Section 671-36, Hawaii Revised Statutes, by deleting the specific underlying liability limits required to participate in the medical malpractice patients' compensation fund and adding a proviso that the Insurance Commissioner by rules will adopt the required underlying liability limits.

Presently, to participate in the patients' compensation fund, health care providers and health care facilities are required to carry the following underlying insurance amounts:

\$100,000 per claim; \$300,000 policy aggregate for individual physicians or surgeons.

\$100,000 per claim; \$1,000,000 policy aggregate for hospitals and other health care providers.

Recent experience shows the present minimum coverage to be too low. No private insurers will write excess insurance with these low underlying limits. The usual underlying limit required by private insurers is \$300,000 or \$500,000 per claim.

This bill allows the Insurance Commissioner to establish the required underlying limits by rules instead of having a statutory underlying limit requirement. In this manner, the Commissioner will be able to change the required underlying limits, depending upon the financial condition of the fund. The corresponding surcharges to reflect the changes will be determined by a consultant actuary.

Your Committee has made a technical form amendment.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2646-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2646-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 760-82      Housing and Consumer Protection and Commerce on S.B. No.  
.2496-82

The purpose of this bill is to require disclosure of estimates of projected sales prices of condominiums to prospective purchasers.

This bill as received by your Committees required that estimates of projected sales prices of condominiums be included in the disclosure abstract provided to prospective purchasers under Section 514A-61, Hawaii Revised Statutes. Your Committees heard testimony that such disclosure is unnecessary as estimates of sales prices are already provided in the newspaper announcement required under Section 514A-102. In addition, information on changes in sales prices are available to prospective buyers through the project developer or through the developer's agent.

Your Committees have amended the bill by:

- 1) deleting all reference to Section 514A-61;
- 2) inserting a provision in Section 514A-102 that information on lease rents including lease rent amounts and applicable time periods be included in the newspaper announcement; and
- 3) inserting a provision that requires project developers to provide prospective purchasers with copies of the newspaper announcement.

Your Committees on Housing and Consumer Protection and Commerce are in accord with the intent and purpose of S.B. No. 2496-82, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2496-82, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Aki.

SCRep. 761-82 Youth and Elderly Affairs and Judiciary on S.B. No. 2401-82

The purpose of this bill is to amend section 350-1 of the Hawaii Revised Statutes, pertaining to child abuse, to facilitate the reporting of incidents involving child abuse or neglect.

Your Committees heard testimony from the Department of Social Services and Housing in support of this bill as it would broaden the scope of persons required to report incidents involving child abuse or neglect, thus minimizing the need to continually amend the law to include persons who may not fall within its scope. Also favored by the Department are provisions in this bill which would facilitate accountability for reporting by clarifying reporting procedures as well as the manner of reporting.

The Police Department of the City and County of Honolulu, the Region IX Child Abuse Project, and the Child and Family Service also testified in support of this bill, while recommending that a penalty provision be included for failure to report or for preventing another individual from reporting incidents of child abuse or neglect.

In consideration of the testimony received, your Committees have amended this bill as follows:

- (1) Addition of a new definitions section which clearly sets forth acts which constitute child abuse and neglect, and which defines the terms "department", "professional", and "report" as said terms are used in Chapter 350.
- (2) Deletion of the standard of "suspect" in relation to the reporting of incidents involving child abuse or neglect, and retention of the higher standards of "know" and "reason to believe".
- (3) Addition of a new section under Chapter 350 to provide for the confidentiality of all reports concerning child abuse and neglect made pursuant to this Chapter, in lieu of having such a provision included in the section on reporting.
- (4) Addition of a new section under Chapter 350 to provide the penalty of a petty misdemeanor for nonreporting of incidents of child abuse or neglect on the part of persons required to make such reports, or for wilfully preventing other persons from reporting such incidents.

Your Committees have also made technical amendments to this bill for purposes of style and clarity.

Your Committees on Youth and Elderly Affairs and Judiciary are in accord with the intent and purpose of S.B. No. 2401-82, S.D. 2, as amended herein, and recommend

that it pass Second Reading in the form attached hereto as S.B. No. 2401-82, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 762-82 Health on S.B. No. 2382-82

The purpose of this bill is to provide protection to a dental patient from unnecessary exposure to X-rays.

Under present law dentists are not required to protect a patient from unnecessary exposure to X-rays.

Your Committee has amended S.B. No. 2382-82, S.D. 1 by deleting "neck and portions of the body below the neck containing vital and reproductive organs" on page 1, lines 5 and 6 and replacing it with "torso from the neck to the pelvis including the genital area".

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2382-82, S.D. 1 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2382-82, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 763-82 Health and Consumer Protection and Commerce on S.B. No. 2144-82

The purpose of this bill is to require that labels on prescribed drugs reflect the expiration date of potency. Because expired drugs may be ineffective or even unsafe, your Committee believes that this change is beneficial to the consumer.

Your Committee has amended this bill by deleting the words "provided by" on page 2, line 16 and replacing it with "available from".

Your Committees on Health and Consumer Protection and Commerce are in accord with the intent and purpose of S.B. No. 2144-82, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2144-82, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 764-82 Health and Judiciary on S.B. No. 2636-82

The purpose of this bill is to amend section 671-3(b), Hawaii Revised Statutes, pertaining to informed consent, to ensure that women who are scheduled to undergo mastectomies shall, not less than forty-eight hours before the performance of the mastectomy, be provided with information regarding medically viable alternative forms of treatment for breast cancer. This bill also requires that the standards of medical practice established by the Board of Medical Examiners be consistent with the requirement for providing such information to breast cancer patients.

Your Committees heard testimony from the Hawaii Medical Association in support of informed consent, which includes providing patients and their guardians with complete information on all viable treatment forms, in regard to any and all medical and surgical procedures. At the same time, however, the Association believes that a single disease entity such as breast cancer should not be statutorily singled out as Hawaii's law on informed consent encompasses all medical and surgical treatment.

While recognizing that breast cancer is the most prevalent form of cancer among women in Hawaii, with over 300 new cases reported each year, and that mastectomies comprise the most predominant form of treatment for this disease, your Committees concur with the testimony offered by the Hawaii Medical Association that patients or their guardians should be given complete information on all viable treatment forms with respect to all conditions being treated.

Accordingly, your Committees have amended this bill to specify that the standards

established by the Board of Medical Examiners as to the content of the information which is required to be given to constitute informed consent from a patient or his or her guardian, include, but not be limited to:

- (1) The condition being treated;
- (2) The nature and character of the proposed treatment or surgical procedure;
- (3) The anticipated results;
- (4) The recognized possible alternative forms of treatment; and
- (5) The recognized serious possible risks, complications, and anticipated benefits involved in the treatment or surgical procedure, and in the recognized possible alternative forms of treatment, including nontreatment.

As amended by your Committees, section 671-3(b) would be consistent with the rules governing informed consent which have been adopted by the Board of Medical Examiners pursuant to the authority granted to the Board under that section.

Your Committees have also made technical, nonsubstantive amendments to this bill for purposes of style and clarity.

Your Committees on Health and Judiciary are in accord with the intent and purpose of S.B. No. 2636-82, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2636-82, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 765-82      Consumer Protection and Commerce on S.B. No. 2389-82

The purpose of this bill is to prevent any liquor from being labelled, designated, or sold using the word "50th State", "Maui", or "Kauai" unless such liquor is wholly or partially manufactured in the State.

Present law places the abovementioned restriction on liquor designated with the words "Hawaii", "Hawaiian", or "Aloha State." This bill extends that restriction.

Your Committee has amended the bill to include the designations "Oahu" and "Honolulu."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2389-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2389-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Liu.

SCRep. 766-82      Consumer Protection and Commerce on S.B. No. 2386-82

The purpose of this bill is to protect buyers of and investors in securities involving undivided interests in out-of-state real property by requiring a description and appraisal of the real property.

Your Committee finds that the offer and sale of securities involving undivided interests in out-of-state real property pose unique problems for the public because the property is located outside of the State and most sales are consummated without inspection of the property by the buyers.

Your Committee has amended the bill to retain only the provision requiring the prospectus to include a description and appraisal of the real property.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2386-82, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2386-82, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 767-82 Consumer Protection and Commerce on S.B. No. 2471-82

The purpose of this bill is to remove the power of the administrator of the Motor Vehicle Safety Responsibility Act from suspending the driver's license of those who fail to pay a judgment for damages resulting from the ownership, maintenance or use of any motor vehicle.

This bill attempts to correct the inequities which may arise by the continued suspensions and bar of renewal of a driver's license by providing for the reinstatement of a driver's license upon proof of financial responsibility in situations where the license was originally suspended as a result of the nonpayment of a judgment.

Your Committee has amended the bill by deleting the provisions which would remove the authority of the administrator as specified and by making nonsubstantive changes to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2471-82, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2471-82, S.D. 2, H.D. 1.

Signed by all members of the Committee except Representatives Dods, Honda, Kawakami, Liu and Medeiros.

SCRep. 768-82 Finance on S.B. No. 486

The purpose of this bill, as received by your Committee, is to reflect changes in the federal administration of health services by amending section 321-52, Hawaii Revised Statutes, to change a reference to the Secretary of Labor to the Secretary of Health and Human Services.

Your Committee has amended the bill in its entirety so that the amended purpose of the bill is to add a new part to Chapter 321, Hawaii Revised Statutes, which mandates the Department of Health (DOH) to administer a maternal and child health program to reduce infant and maternal mortality and morbidity, and otherwise promote the health of mothers and children.

Presently, the DOH is coordinating and supervising activities relating to maternal and child health, including programs aimed at reducing the incidence of preventable diseases and handicapping conditions. However, testimony received by your Committee indicates that the new statutory part or addition is necessary to provide the Department with the express statutory authority to provide and continue to provide such maternal and child health services and to enter into necessary agreements with governmental entities and private providers.

The bill also enumerates the powers or duties of the DOH under the maternal and child health program.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 486, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 486, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 769-82 Finance on S.B. No. 2926-82

The purpose of this bill is to provide funding for the continued operation of nine substance abuse programs for the last quarter of fiscal year 1981-82.

The Statewide Services Grant for community-based drug abuse treatment services which the State currently receives from the National Institute on Drug Abuse will terminate on March 31, 1982. This bill will help to minimize the severe impact of the loss of federal drug treatment funds to the State. The State has appropriated the matching share of this grant for the past four years, including approximately \$85,521 remaining for the period April 1, 1982 through June 30, 1982.

Your Committee has amended this bill by adding "Center" on line 8 page 3, and to make other non-substantive changes.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2926-82, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2926-82, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 770-82          Finance on S.B. No. 2814-82

The purpose of this bill is to authorize the Department of Land and Natural Resources to negotiate and enter into long term residential leases not to exceed sixty-five years with persons and certain heirs of those persons who were displaced from their original homesites by the 1926 eruption of Mauna Loa and who set up residence in the Milolii-Hoopuloa area covered by this bill.

Your Committee finds that since 1926, there have been several efforts by territorial, county, and state officials to resolve in an equitable manner, the displacement of these people. However, none have resulted in any permanent resolution; the residents of Milolii-Hoopuloa presently do not hold any tenure to the land.

Your Committee further finds that there is a prevailing policy consideration in preserving the unique cultural life of the Hawaiian community of the Milolii-Hoopuloa and is one which warrants particularly in light of the new development projects and increased in-migration which have considerably changed the Kohala-Kona coast in recent years.

Your Committee has amended this bill to make minor non-substantive changes to correct drafting errors.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2814-82, 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. 2814-82, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 771-82          Finance on S.B. No. 2915-82

The purpose of this bill is to provide for the clarification of powers and duties of the marine affairs coordinator and the department of planning and economic development with respect to marine coordination functions.

Your Committee finds that if Hawaii is to capitalize on the immediate and long term opportunities to develop and utilize marine resources the total efforts of the State's planning, research, development, and promotion of the marine environment needs to be effectively coordinated.

Your Committee agrees that the marine affairs coordinator should serve without pay, but be reimbursed for reasonable expenses for travel and per diem.

Your Committee has amended this bill to provide that this bill shall control in the event of conflict and to make other technical corrections.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2915-82, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2915-82, H.D. 2.

Signed by all members of the Committee.

SCRep. 772-82          Finance on S.B. No. 262

The purpose of this bill is to assist the counties in establishing appropriate delinquent penalties for the late renewal of motor vehicle registrations by repealing the existing statutory ten percent delinquency penalty and, in its place, authorizing each county council to establish penalties at appropriate county levels.

Your Committee concurs with testimony from the City and County of Honolulu supporting this measure as a means of allowing the counties to establish different delinquency penalties appropriate to each county's late motor vehicle registration renewal rate, which may differ among the counties.

Upon further consideration, and in consonance with favorable verbal testimony by the City and County of Honolulu, your Committee has amended this bill to provide that owners of antique motor vehicles be exempted from the tax and delinquent penalty imposed under Chapter 249 for the period of the motor vehicle's non-use, if the owner presents to the applicable county Director of Finance a signed and sworn certificate attesting to the antique motor vehicle's period of non-use.

Your Committee heard testimony that under present law, antique motor vehicle owners must pay all back taxes and penalties for periods of non-use. In consideration of the large sums of money and amounts of time required to restore antique motor vehicles, many such vehicles are not used or registered until operable. In most cases, application for registration to operate these vehicles on public highways are for purposes of historical exhibition, and many antique motor vehicle owners are not capable of paying the required registration fees and taxes. Your Committee believes that the cultural and aesthetic value of these antique motor vehicles may be lost if persons are discouraged from restoring and maintaining antique motor vehicles because of back taxes and penalties for the period of non-use such vehicles may be subject to. Therefore, your Committee has exempted this particular type of motor vehicle from back taxes and penalties as a condition precedent to registration.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 262, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 262, S.D. 1, H.D. 2,

Signed by all members of the Committee.

SCRep. 773-82            Public Assistance and Human Services and Judiciary on S.B.  
No. 2245-82

The purpose of the bill is to update Chapter 576, Hawaii Revised Statutes, to conform the chapter to the 1968 Revision of the Uniform Reciprocal Enforcement of Support Act.

Hawaii's Reciprocal Enforcement of Support Act was first passed in 1951 by the Territorial Legislature as Act 216, Regular Session, 1951. The chapter was amended extensively in 1953 and again in 1955, but no major changes have been made since. In 1968, the model uniform reciprocal enforcement of support act was revised, but Hawaii did not adopt the changes. This bill will remedy the situation and conform Hawaii's law to the national reciprocal model, which has been adopted by some forty jurisdictions.

Some of the major provisions of the bill include inter alia:

(1) Changes in the definition section of the chapter to provide that the commonwealth of Puerto Rico and any foreign jurisdiction fall within the definition of state and amends the term "duty of support" to include a duty to pay arrearages of support payments not paid. These changes will clarify the law to make it clear that the State of Hawaii can collect arrearages as well as current payments.

(2) The responding court's jurisdiction in URESA matters will be limited to the issue of support obligations, and the court may not refuse to accept the filed complaint on the basis that it should be consolidated with some other pending action. This will provide the parties an opportunity to litigate the issue of support without dealing with the related issues such as custody, visitation, adoptions, or divorce. The sole issue that will be determined is that of obligation and enforcement of a duty to support. The court is also empowered to issue support orders pendente lite even where there is a pending action for divorce.

(3) A new section will be added to the law whereby the court will be empowered to deal with the issue of paternity, if, the defendant in a URESA action raises non-paternity as defense, as a part of the issue whether there is a duty of support by the defendant.

(4) The bill will also authorize the clerk of the court to reduce a foreign decree and register it as a local decree, making it an enforceable court order. This change will streamline the often cumbersome process of enforcing a support decree from another jurisdiction.

The above changes will assure that URESA law is updated and conform to that of the some forty other jurisdictions that have adopted the 1968 revisions, and thereby insure uniform and effective enforcement of the state's efforts to enforce parental duty



to support a child.

The Department of Social Services and Housing, the Department of the Corporation Counsel of the City and County of Honolulu, and the Family Court all testified in favor of the changes proposed in the bill.

Your Committees have added language which was inadvertently omitted when the bill was drafted. On page 9, line 12 after the word "registration", the following has been added: "in which to petition the court to vacate the registration".

Your Committees on Public Assistance and Human Services and Judiciary are in accord with the intent and purpose of S.B. No. 2245-82, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2245-82, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 774-82            Judiciary on S.B. No. 2304-82

The purpose of this bill is to include a new definition of "filer" under Chapter 97, Hawaii Revised Statutes, relating to lobbyists, in order to clarify requirements for lobbyist registration and filing of expenditure statements.

Presently, both the lobbyist and the organization which employs the lobbyist must file expenditure statements but only as to what expenses are incurred by the lobbyist. Consequently, an organization which expends more than \$275 within a six-month period for lobbying purposes must register another lobbyist in order to file an accurate expenditure statement. In addition, individuals who are not paid, but who expend more than \$275 in a six-month period are required to register as lobbyists.

Testimony presented by the State Ethics Commission revealed that the existing statutes results in undue burden for the lobbying organization as well as the Ethics Commission, which must receive lobbyist registration.

Your Committee finds that the term "filer" is confusing and does not adequately clarify the roles of "lobbyist" and persons who must file expenditure statements. The State Ethics Commission proposed that individuals who are not paid, but who expend more than \$275 in a six-month period be exempted from registering as lobbyists but be required to file expenditure statements. Your Committee has adopted the Commission recommendations and has amended the bill to revise the definition of "lobbyist" by deleting those individuals who spend more than \$275 in a six-month period, and by requiring persons (including organizations and individuals) who spend this amount to file expenditure statements without having to register as lobbyists.

In addition, your Committee has amended the bill to provide that renewals of lobbyist registrations be made on a biennial, rather than annual, basis.

Your Committee has further amended the bill by conforming section 97-6, Hawaii Revised Statutes, with the changes made. Other technical, non-substantive amendments have also been made.

Your Committee is in accord with the intent and purpose of S.B. No. 2304-82, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2304-82, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 775-82            Consumer Protection and Commerce on S.B. No. 2696-82

The purpose of this bill is to provide for the incorporation of consumer cooperative associations in the State of Hawaii.

Your Committee received testimony in favor of the concept of cooperatives and passage of this bill. This bill provides the basic framework for the regulation of consumer cooperatives.

Your Committee amended this bill for the purpose of clarity and simplicity by:

1. Deleting the requirement that the Department of Regulatory Agencies prepare forms for an association's bylaws.
2. Clarifying the definition of "volunteer" and the intention that volunteer workers not be covered by the existing laws for the protection of employees.
3. Clarifying the intention of the bill to exempt the membership stock of associations from securities regulation of Chapter 485, Hawaii Revised Statutes.
4. Amending the audit preparer requirements.
5. Making nonsubstantive form and style amendments.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2696-82, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2696-82, S.D. 1, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 776-82            Employment Opportunities and Labor Relations on S.B. No.  
2531-82

The purpose of this bill is to amend Section 383-7, 386-1, 392-5 and 393-5, Hawaii Revised Statutes, which would exclude coverage for a vacuum cleaner dealer performing services solely by way of commission.

The present laws require every employer to provide wage-loss and medical benefits for all eligible employees. However, a conflict between state and federal laws in regards to vacuum cleaner dealers has existed. The federal government has issued a ruling (Revenue Ruling 55-734; Doc #7851109) declaring vacuum cleaner dealers are not employees under the federal law while under state laws no such exemption exists for these dealers. Therefore, due to the federal ruling, employers make no contributions to federal unemployment insurance and are not required to withhold federal income tax or social security tax.

Under state labor laws the dealer is not considered an independent contractor and therefore the employer must make contributions to the state unemployment fund and is required to withhold state income tax.

Additionally, the current status of the law has created confusion under the state taxation laws. Because the salesperson is treated as an independent contractor under federal laws and an employee under state, all commissions he receives are subject to four percent tax and must be paid by the company. Thus, recordkeeping requirements for employers are difficult and has created a state of confusion as to the status of independent contractors.

The inclusion of vacuum cleaner dealers as independent contractors will remedy the confusing status of independent contractors as well as conform to present federal laws regarding vacuum cleaner dealers as independent contractors.

Your Committee has amended this bill by deleting Section 3 which deals with Workers' Compensation and Section 5, which deals with Pre-Paid Health. Your Committee feels that such employees should be protected from on the job injuries which the Workers' Compensation Law covers, and that since the Pre-Paid health law has been declared null and void, there should be no sections that pertains to these laws.

For the purpose of consistency your Committee has also amended the bill by renumbering sections 4, 6, and 7 to sections 3, 4, and 5 respectively.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of S.B. No. 2531-82, S.D. 1 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2531-82, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 777-82      Finance on S.B. No. 2288-82

The purpose of this bill is to authorize the Department of Agriculture to receive funds, subject to the approval of the Governor, from private or governmental sources to carry out projects, agreements, contracts, or other transactions necessary in the conduct of business related to the Department's objectives and goals.

Your Committee finds that the Department of Agriculture has been the recipient of such funds, although there is presently a lack of specific language in the Hawaii Revised Statutes authorizing the Department to do so, in carrying out business relating to its objectives and goals. This bill proposes to insert such enabling language.

Your Committee has amended this bill to correct chapter references and other technical drafting errors.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2288-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2288-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 778-82      Finance on S.B. No. 1287

The purpose of this bill is to propose a number of amendments to Part II, Chapter 88 of the Hawaii Revised Statutes relating to the Employees' Retirement System. The amendments are the result of a directive from the System's Board of Trustees to review the statutes governing the System, and are intended to clarify the existing law as well as to fill certain gaps. While most of the amendments are merely housecleaning items and reflect current administrative practices, there are also a number of substantive changes which are as follows:

Section 1, subsection (1) amends Section 88-21, HRS, by more clearly defining the term "elective officer" and specifically excluding from such definition persons elected to the Constitutional Convention, members of the Board of Education, and the trustees of the Office of Hawaiian Affairs. Such individuals will be excluded from membership because (1) as elective officers they do not have the option of membership and (2) under rules and regulations adopted by the System, employees of three months or less are excluded.

Section 2, subsection (2) redefines police officers and firefighters as "general employees" for the purpose of making them eligible for election to the Board of Trustees. Pursuant to HRS 88-102, members of the System are presently classified into four groups: general employees of the State; general employees of the counties; teachers; and police officers and firefighters. Under HRS 88-24, members of the System may elect three board members, two of whom must be "general employees" and one of whom must be a "teacher". The amendment therefore removes the current statutory prohibition barring police officers and firefighters from running for election.

Subsection (3) repeals HRS 88-32 relating to the independent medical review board. A recent Hawaii State Supreme Court decision held that appeals of adverse decisions to the board did not provide the member with the type of hearing required by the Administrative Procedures Act. Procedural rules were subsequently adopted by the Trustees to implement that ruling, thereby making the board an obsolete body.

Subsection (8) amends HRS 88-55 dealing with civilian employees of the Hawaii National Guard who had elected membership in the federal retirement system on January 1, 1969 and had later quit such employment to return to State or county employment. Excluded from membership service is the period these persons were under the federal system. It should be noted that many of these individuals were already members of the State Retirement System when they elected to join the federal retirement system.

Subsection (10) creates a new section under Chapter 88 relating to the membership of employees holding more than one position, appointment or office by limiting such individuals' membership to only one. However, where a person has two part-time positions of the same class, membership may be for both, provided that the two do not exceed 100 percent of full-time equivalence.

Subsection (11) amends HRS 88-58 by clarifying the provision dealing with per diem workers. In the early 1950's the retirement law was amended to provide membership

to per diem county road workers who were at that time excluded because of the part-time nature of their work. Unfortunately, the law did not make clear that only county road workers were to be covered, so presently anyone who has been paid on a per diem basis may claim prior service. The amendment corrects this situation by restricting such prior service credit to only those per diem employees who had been county road maintenance workers after December 27, 1927.

Subsection (12) amends HRS 88-59 by allowing only those with five or more years of service to purchase their previous service through a lump sum payment. This change will prohibit anyone who has left service after ten years, withdrawn his contributions and subsequently returned to work, from purchasing all of his previous service and retiring after working only a few months. It should be noted that under current law, a member who does this will receive, under Option Five, a substantial monthly pension for life. This proposed amendment will apply only to future new members of the System.

Subsection (13) is a substantive change to HRS 88-62, relating to a former member's return to service. The section currently provides that when a former member returns to work after four years, all of his contributions to the System must be returned if he has not already withdrawn them. It further states that credit for previous service may be regained if he so desires by purchasing it in accordance with HRS 88-59; and that the service requirement must be fulfilled in order for him to qualify for any benefit. The aforesaid policy discriminates against those who have left with five or more years of service, did not withdraw their contributions and are therefore already vested. The amendment would change the law to cover only those with less than five years of service and provides that to be eligible for a retirement benefit after returning to work, the employee must meet the minimum service requirement without including any previous service that may have been purchased in accordance with HRS 88-59.

Subsection (14) amends HRS 88-74 relating to the State's "25 years and out" retirement policy. As presently worded, the section may be misinterpreted to mean that a member with 25 years of any type of service is eligible for retirement without being penalized so long as he serves his last five years as a police officer, firefighter, corrections officer or sewer worker. The amendment seeks to clarify the situation by stating that any police officer, firefighter, corrections officer or sewer worker cannot retire with full benefits unless he has served 25 years in such a capacity, of which the last five must also be in capacity.

Subsection (15) amends HRS 88-96 and 88-97. Hawaii Revised Statutes 88-96 presently provides that the contribution of any separated member shall be returned upon request. It further states that no interest shall accrue to his account after four years, and that if he has five or more years of service he may attain "vested status" by filling out the proper forms within four years. "Vested status" makes him eligible for a service retirement at age 55 with benefits based on the formula existing at the time of his separation from service.

Hawaii Revised Statutes 88-97 deals with a separated individual who has attained such status and later returns to active service. The section states that (1) he shall become a member again; (2) he must fulfill the membership requirements in order to be eligible for a service retirement; and (3) his retirement benefit shall consist of his vested benefit plus whatever other benefit had accrued as a result of his new period of membership.

Such a situation creates an inequity when the member finally retires, particularly if his initial vested benefit had been based on a formula which produced an amount less than the current one in use. In the case of an individual who initially withdraws all of his contributions and later returns to service, pursuant to HRS 88-59 he can purchase all of his previous service and retire with all of it computed under the current formula. Moreover, the present law does not prohibit a vested person from attaining a refund of his contribution before he returns to service. For these reasons, members with five or more years of service often do not choose to attain vested status because it could actually be more disadvantageous to them.

The amendment to HRS 88-96 therefore provides that anyone with five or more years of service who had left his contributions in the System shall be deemed to have been vested without the necessity of filling out any forms for such purpose.

Also, an amendment to section 88-96(b) will give a member with five or more years of service four-calendar years, following termination, to withdraw his contribution. If not, then the member shall be deemed to have established vested benefits, and the contribution shall not be withdrawn thereafter. The present bill does not specify any

time as to how long a member has to decide whether to withdraw or vest his contribution. Your Committee believes that this may cause unnecessary problems between the members and the Board. Your Committee has also made technical amendments to the bill.

In addition, HRS 88-97 has been amended to provide that if a vested member returns to active service, his benefit shall be computed in accordance with the present statutes if he has less than five years of service after his return. However, if he has five or more years of service after his return, then all of his service shall be computed under the existing formula if the benefits so provided are greater than if computed in accordance with the present statutes.

Your Committee has amended this bill to add a new section 3 to add provisions to allow the Board of Trustees of the System to duly consider any member's request to waive, to the extent necessary, the Board's member home loan policy; i.e., the prohibition of agreements of sale to or assumptions of loans by nonmembers. The intent of this amendment is to help in those situations where unforeseen circumstances such as divorce or a major business failure require the sale of a member's principal residence.

Your Committee has also made other nonsubstantive amendments to correct drafting errors and to update this bill.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1287, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1287, S.D. 1, H.D. 1.

Signed by all members of the Committee.

SCRep. 779-82            Consumer Protection and Commerce on S.B. No. 400

The purpose of this bill is to raise the allowable maximum rate of interest for certain transactions.

This bill amends Section 478-8, Hawaii Revised Statutes, relating to interest and usury by raising present interest limits on the sale and purchase of "tangible personal property" to 18 percent per annum. These transactions include purchases of goods for resale and purchases for consumption.

Presently, banks, savings and loans, and industrial loan companies are exempted from general interest and usury provisions and make loans at interest rates which substantially exceed those set by chapter 478, Hawaii Revised Statutes. Other transactions, such as retail installment contracts and credit card transactions are also exempted. Other businesses, however, are limited to 12 percent interest on their written contracts. This provides an "incentive" for their customers to default on contracts, in effect financing purchases at an advantageous rate of interest. Besides creating cash flow problems for businesses, losses result because inventory and other expenses are often financed through lending institutions charging prevailing rates.

While in agreement with the general intent of the bill, your Committee has narrowed the exemption to include only those transactions between merchants within the exemption. Your Committee notes that the present interest rates on retail installment contracts utilized for consumer purchases is 18 percent per annum, and therefore feels that the blanket lifting of the 12 percent ceiling on all purchases of goods is not necessary at this time. The definitions of transactions involved are referenced to the Uniform Commercial Code for clarity and consistency.

Your Committee has also amended the bill to raise the interest rate allowed on unwritten contracts as provided in Section 478-1, Hawaii Revised Statutes, from six to 10 percent per annum.

Your Committee has also amended the bill to exempt two other classes of real estate transactions from the general usury restriction: (1) interest rates in situations where sellers take purchase money junior mortgages, and (2) interest rates pursuant to sub-agreements of sale. Your Committee feels that these exemptions will provide both sellers and purchasers of real property more flexibility in financing arrangements.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 400, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 400, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Liu.

SCRep. 780-82 Finance on S.B. No. 1308

The purpose of this bill is to authorize the advancement of state funds to the counties to finance the federal share of the planning and design costs of wastewater treatment works. This funding advance shall be reimbursed by federal funds during the construction stage of these treatment facilities. The bill also includes an appropriation of \$5,300,000 to accomplish the purposes of this bill.

Amendments to the federal Clean Water Act in 1981 resulted in the withholding of federal fund reimbursements for planning and design of wastewater treatment facilities until actual construction for these facilities is initiated. This bill would authorize a funding advance to the counties for these projects and ensure maximum utilization of available federal funds.

Your Committee has amended this bill to clarify the intent that reimbursement be made as soon as possible and also to make the appropriation available upon approval but to lapse in 1983.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1308, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1308, S.D. 2, H.D. 1.

Signed by all members of the Committee except Representatives Albano and Wong.

SCRep. 781-82 Finance on S.B. No. 2682-82

The purpose of this bill is to amend Section 334E-2 of the Hawaii Revised Statutes to ensure that all psychiatric facilities afford in-patients certain rights.

This bill would make it mandatory for all psychiatric facilities to afford all in-patients rights and authorizes the patient's legal guardian or representative to exercise these rights on behalf of the patient.

The bill also provides for six additional patient rights and requires the department of health or the office of the ombudsman to investigate grievances submitted by any patient in a psychiatric facility.

Your Committee has amended this bill to make other minor non-substantive changes to further clarify the bill.

Your Committee on Finance is in accord with S.B. No. 2682-82, S.D. 1, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S. B. No. 2682-82, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representative Albano.

SCRep. 782-82 Finance on S.B. No. 2955-82

The purpose of this bill is to fix the responsibility for emergency medical services.

Your Committee favors continued state responsibility for the emergency medical services system established pursuant to Act 148, Session Laws of Hawaii 1978. Your Committee concurs with the belief that the system has attained the basic goals of Act 148. Your Committee also recognizes the legitimate concern for the uniform emergency medical services system presently existing throughout the State.

Your Committee finds that emergency medical services should continue to be provided on a statewide basis for all residents regardless of the population of the county in which they reside. Accordingly, the counties should implement a county system of pre-hospital emergency medical services consistent with the standards and levels of service established by the Department of Health in the statewide system.

Your Committee generally agrees with the concerns expressed in House Standing Committee Report No. 721-82.

Your Committee has amended this bill to conform to the intent of this bill.



Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2955-82, 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. 2955-82, S.D. 2, H.D. 2.

Signed by all members of the Committee except Representative Albano.

SCRep. 783-82 Finance on S.B. No. 2470-82

The purpose of this bill is to authorize the department of health to provide services to veterans who are or were residents of this State and who served in Vietnam, Cambodia, or Laos during the Vietnam conflict and who have possibly been exposed to the chemical defoliant known as "agent orange". Your Committee is in accord with the scope of this bill limiting services to those veterans who are residents and who were in Vietnam, Cambodia, or Laos during the Vietnam conflict for whatever reason.

Your Committee finds that there is no question as to the toxicity of agent orange, although no substantive studies have been done to confirm a cause-and-effect relationship between agent orange and the effects reported. The crucial question is whether the company which produced the herbicide is responsible or the federal government who commissioned its use. Neither one wishes to take responsibility. In fact, the federal government is no longer providing fat tissue biopsies designed to determine whether veterans do in fact have positive residues of the herbicide agent orange.

Your Committee is acutely aware that legal and moral responsibility for the effect of agent orange on Vietnam era veterans clearly lies with the federal government. Your Committee is also aware that the State is fast approaching a time of fiscal constraints. However, we cannot sit idly by while the federal government continues to ignore the very real and human tragedy surrounding these veterans. They are not asking for compensation by the State. All that is asked is testing for confirmation of exposure to herbicide poisoning, genetic counseling and screening, and epidemiological studies. The bill provides that should the federal government accept its clear responsibility, the state program may be discontinued.

Your Committee has amended this bill to clarify the assistance programs section by limiting the expenditures of the program to the funds appropriated by the legislature. Your Committee has also made technical and non-substantive changes.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2470-82, 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. 2470-82, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 784-82 Finance on S.B. No. 536 (Majority)

The purpose of this bill, as received by your Committee, is to require the Department of Social Services and Housing, in determining the needs of an applicant or recipient for public assistance, to consider the income and resource of an immigrant sponsor as available for the support of a resident alien for three years immediately following the arrival of the resident alien unless certain conditions apply. As received, the bill would have amended section 346-29, Hawaii Revised Statutes, relating to applications for public assistance.

Your Committee has amended the bill in its entirety so that the bill now amends section 346-71, relating to general assistance. The amended purposes of the bill are as follows: (1) to conform conditions of eligibility for the State's General Assistance Program with conditions of eligibility under comparable federally funded financial assistance programs; (2) to require that families must first establish eligibility for assistance for federal programs; (3) to clarify that only a licensed physician whose specialty is in psychiatry shall determine whether a person is mentally impaired; (4) to determine ineligibility of an assistance unit for general assistance if an adult in the assistance unit fails to cooperate with any appropriate state agency for vocational rehabilitation services after being referred for services; and (5) to specify that the eligibility for general assistance of a person with dependent children in the home due to the person's unemployment--but who must be actively and diligently seeking employment--shall be for unemployment "within twelve months prior to application," rather than for an unspecified or unlimited period.



Your Committee has received testimony from the Department of Social Services and Housing indicating that the General Assistance Program, funded entirely by State funds, was never intended to cover families who are categorically eligible for federally funded assistance programs such as Aid to Families with Dependent Children (AFDC). Since the 1981 federal Omnibus Reconciliation Act tightened income eligibility requirements for AFDC the State's statutory eligibility requirements for General Assistance have become more liberal than the eligibility criteria for comparable federally funded financial assistance programs. This bill, as amended, remedies such differences or lack of conformity.

Your Committee notes that unless this bill, as amended, is enacted, the cost to the State in general fund revenues will exceed \$2 million in fiscal year 1982-1983.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 536, 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. 536, S.D. 2, H.D. 2.

Signed by all members of the Committee.  
(Representatives Fukunaga, G. Hagino and Okamura did not concur.)

SCRep. 785-82      Finance on S.B. No. 544

The purpose of this bill is to lower the general excise tax rate on the producers engaged in the business of mariculture.

Your Committee has amended this bill generally to limit the scope of the bill to the stated purpose. The amendment of HRS 237-5 to include "mariculture" accomplishes the intent of the bill.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 544, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 544, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Albano.

SCRep. 786-82      Consumer Protection and Commerce on S.B. No. 2638-82  
(Majority)

The purpose of this bill is to require any seller, lessor, broker or agent of real property located in certain designated hazardous areas to provide timely notification to prospective buyers, lessees or tenants and to require that a clear statement that the property lies within the boundaries of certain hazardous areas be included in the initial or subsequent instruments of transfer.

This bill would provide protection for prospective buyers, lessees and tenants prior to occupying or acquiring interests in property within certain designated hazardous areas. The bill delineates the boundaries of special flood hazard areas as designated on FIA (Flood Insurance Administration) maps promulgated by the United States Department of Housing and Urban Development.

Your Committee has amended the bill by deleting reference to areas located near civilian and military airports, and has deleted the proposed penalty section.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2638-82, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2638-82, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 787-82      Finance on S.B. No. 1447

The purpose of this bill is to allow the designated beneficiary or estate of a member of the public employees' retirement system who has filed a written application for service retirement but who has died within thirty days after filing the application to receive

the benefits which would have been payable had the member died on or after the date of retirement.

Under present law, the amount of retirement benefits payable to the designated beneficiary or estate of a member who has filed an application for retirement but died prior to actual retirement may be substantially less than the amount of the benefits payable to the member or beneficiary had the member lived until retirement. This situation is clearly unfair, and this bill corrects the problem.

Your Committee has amended the bill by deleting the requirement that the death of the member occur within thirty days of filing the application for retirement if the member's beneficiary or estate is to receive the benefits payable had the member lived. Present law allows a member to file an application which specifies a retirement date of not more than ninety days after application. This amendment extends the application of the main provision of this bill to the designated beneficiary or estate of a member who specifies a retirement date of more than thirty days after application but dies prior to retirement.

Your Committee has also amended the bill by making substantial technical amendments which are necessary to conform the bill to bill drafting style. Among the more important amendments are the following:

(1) The amendment to section 88-61, Hawaii Revised Statutes (HRS), has been deleted from the bill, as received. The Committee on Public Employment and Government Operations intended to delete the amendment, but the form of the deletion in the bill, as received, is technically incorrect.

(2) The entire language of section 88-73, HRS, has been included in the bill, as amended. The bill, as received, contained only a portion of the section.

In addition, your Committee has made one substantive addition to the bill, as received. A new provision has been added which requires a member to retire upon the filing of a third application for service retirement. Some members submit applications for service retirement and then withdraw the applications prior to the retirement dates. Much time and resources are wasted by the public employees' retirement system on processing applications which are withdrawn. Your Committee recognizes that members may have legitimate reasons for withdrawal of applications. But, your Committee also finds that wasted expenditures of time and resources on withdrawn applications are contrary to efficient administration. Thus, a balance must be provided between the necessity for allowing withdrawals for legitimate reasons and the necessity for efficient administration. Your Committee feels that the new provision which allows members to withdraw two applications, but prohibits members from withdrawing a third, achieves that balance.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1447, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1447, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representatives Albano and Wong.

SCRep. 788-82      Judiciary on S.B. No. 2147-82

The purpose of the bill is to amend the Hawaii Revised Statutes to provide for increased penalties for persons convicted of driving a vehicle while under the influence of intoxicating liquor. The bill amends various sections of the Hawaii Revised Statute to provide a series of mandatory penalties including fines, imprisonment, suspension of license and attendance at an alcohol abuse rehabilitation program.

Your Committee is convinced that the ever increasing rate of traffic fatalities is directly related to driving while under the influence of intoxicating liquor. Extensive testimony was given by various organizations and individuals who all recognize the urgent need to deal with the problem of traffic fatalities caused by drinking.

Your Committee also heard testimony that there are many other thousands of persons who drive while under the influence of alcohol but who are seldom arrested.

Your Committee also received testimony from the American Civil Liberties Union (ACLU) and Hawaii Council of Churches that laws providing for mandatory sentencing may in its application discriminate against the poor class of our society.

Your Committee has focused its attention on two separate areas of the drunk driving problem: first, the traffic fatalities due to drinking and, second, the general apathy of many thousands who drink and drive with no thought of being arrested and punished.

Your Committee urges that a drinking driver who causes a fatal accident should be appropriately punished under the penal code, not under the traffic code.

As for the many other thousands of drinking drivers, a lower tier of punishment, including mandatory educational programs to discourage drunken driving appear to be adequate deterrence.

In balancing and weighing the need of protecting our citizens against the danger of drunken drivers and, at the same time, insuring that the measures adopted to curb drunken driving do not discriminate against any class of our society, the Committee has amended the bill as follows:

- (1) deleted the forty-eight (48) hour term of imprisonment and ninety-day license suspension for the first time offenders.
- (2) changed from five years to two years the period in which the escalation of punishment for repeat offenses would apply.
- (3) provide mandatory community service of 72 hours for the first time offenders.

Your Committee believes a mandatory program of education and counseling will be much more effective than a two day prison term or a short suspension of the driver's license. A mandatory program of community service will similarly prove more effective to curb drinking drivers.

Your Committee believes that the proposed amendments will insure a fair and equitable traffic code that would impose adequate penalties to curb driving while under the influence of intoxicating liquor.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2147-82, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2147-82, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 789-82 Youth and Elderly Affairs and Judiciary on S.B. No. 2183-82

The purpose of this bill is to strengthen the existing provisions under Chapter 349 of the Hawaii Revised Statutes in regard to the rights of residents of long-term care facilities by:

- (1) Requiring the Executive Office on Aging to report violations under section 349-14 to the police or to the prosecuting attorney.
- (2) Providing that every separate retaliatory act and every day during which such an act continues shall be a separate offense; providing for the imposition of consecutive sentences; and providing that no sentence of suspended sentence or probation shall be imposed.

Section 349-14 presently provides that no resident seeking advocacy assistance pursuant to Chapter 349 or making a complaint regarding a facility or any of its employees shall be subjected to any retaliatory action by the facility or its employees for seeking such assistance or making such a complaint. Any violation of this provision is to be determined by the Executive Office on Aging and constitutes a misdemeanor.

The Executive Office on Aging testified in support of this bill, which would require the Executive Office on Aging to report any violation of section 349-14 to the police or prosecuting attorney for action in accordance with normal criminal proceedings. This amendment to section 349-14 would clarify and make constitutionally valid the procedure for enforcement of this section in those instances where the Executive Office on Aging would have to protect a resident from retaliatory acts.

After careful consideration of the testimony received, your Committees have amended this

bill as follows:

- (1) Insertion of language defining the term "retaliatory act" for the purposes of Chapter 349 as follows: "... 'retaliatory act' shall include, but not be limited to, actual or threatened physical injury, psychological abuse or neglect, sexual abuse, negligent treatment, maltreatment, or any form of discrimination as reprisal for seeking advocacy assistance or making a complaint."
- (2) Insertion of language specifying each separate retaliatory act constitutes a separate offense.

Your Committees have also made other technical, non-substantive amendments for purposes of style and clarity.

Your Committees on Youth and Elderly Affairs and Judiciary are in accord with the intent and purpose of S.B. No. 2183-82, S.D. 1 as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2183-82, S.D. 1, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 790-82          Finance on S.B. No. 2759-82

The purposes of this bill, as received by your Committee, are (1) to increase the salaries or maximum salaries of certain executive branch officers, judges and certain judicial officers, and legislative agency officers of the State government whose compensation is presently fixed or limited by statute; (2) to prohibit the State and the counties from providing salary adjustments or increases to certain State and county officers or employees where the adjustment or increase constitutes a mandatory or automatic adjustment or increase which is, directly or indirectly, dependent upon and related to negotiated salary increases received by civil service or non-civil-service employees covered by collective bargaining; and (3) to create an advisory compensation review commission to review the compensation or salaries of certain specified categories of non-civil-service State and county employees and to recommend a compensation schedule for such employees.

To provide for the salary increases, the bill amends the various sections of the Hawaii Revised Statutes which set or limit the annual salaries of those high level State officers covered by this bill, including the Governor, the Lieutenant Governor, department heads and their deputies, the chairperson and members of certain quasi-judicial boards or commissions, and other officers or administrators within the executive branch; judges and certain appointed officers within the judicial branch; and the heads and deputies or assistants of the three legislative agencies (Legislative Reference Bureau, Office of the Auditor, and Office of the Ombudsman).

Your Committee notes, as indicated in House Standing Committee Report No. 686-82 issued by the Committee on Public Employment and Government Operations, that these elected or appointed officers of the State received their last salary adjustments over six years ago on January 1, 1976. Subsequently, subordinate employees covered by collective bargaining have received annual salary increases which, when compared with the salaries of the high level executive, judicial, and legislative officers covered by this bill, create inequities in the overall State compensation structure. Moreover, the salaries of elected and appointed county officers, in general, have also been more frequently and more adequately adjusted in comparison with the salaries of the State officers covered by this bill.

Furthermore, as a result of a recent Hawaii circuit court decision invalidating the "95% statutory limit" or lid on the salaries of certain categories of public officers and employees who are excluded from collective bargaining [sections 89C-2(2) and 89C-2(3), HRS], as that lid was being applied to a number of upper level civil service and non-civil-service management personnel so excluded, a considerable number of such upper level administrators are now being paid more than their respective administrative superiors and/or more than department heads or deputy department heads. (See Public Employees' Management Association of Hawaii v. Ariyoshi, Civil No. 65791, First Circuit Court, State of Hawaii (1981).)

In view of the foregoing, your Committee concurs that salary adjustments for the State officers covered by this bill are merited to alleviate the existing pay inequities

in the public sector.

After due deliberation, your Committee has amended the bill (H.D. 1) in the following principal respects:

(1) In Section 1(2) of the bill, statutory language relating to the discretionary authority of the Board of Education to set the salary of the superintendent of education within a specified statutory ceiling, and the Board of Regents to similarly set the salary of the president of the University of Hawaii, has been repealed (p. 2 of the H.D. 1).

Accordingly, appropriate amendments have been made to set or fix the annual salaries of the superintendent and the president of the University at specific dollar amounts.

The specific salary amounts for the University president, respectively effective on July 1, 1981, and July 1, 1982, have been amended so as to be identical to the respective salary amounts to be paid under the bill to all other State department heads (\$46,750 effective July 1, 1981, and \$51,425 effective July 1, 1982). Your Committee believes that all department heads should be accorded equal treatment with respect to compensation.

(2) In Section 1(3) of the bill, which amends section 26-53, HRS, relating to the salaries of first and second deputies or assistants to State department heads, the proposed new paragraph, authorizing the Board of Education to set the salary of the first deputy superintendent of education within specified statutory ceilings, has been deleted (p. 4 of the H.D. 1).

The effect of the deletion is that the first deputy superintendent of education shall be treated for pay purposes like all other first deputies or first assistants and shall receive the same salary amounts or increases provided in this bill for all other first deputies or assistants.

Because of the deletion of the above-indicated proposed new paragraph, the necessary conforming amendments to section 26-53, HRS, have also been made--primarily by deleting references to "other than the department of education" in sentences or provisions relating to the salaries of first deputies or first assistants.

(3) Section 1(4) of the bill, which amends section 26-54, HRS, relating to the salary of the administrative director of the State, has been amended so as to repeal section 26-54 in its entirety (p. 4 of the H.D. 1). Your Committee notes in this regard that the position of the State administrative director has been vacant for a number of years.

(4) Section 2 of the bill, which amends section 29-1, HRS, relating to the Hawaii office of federal programs coordinator, has been amended to delete or repeal all provisions relating to the salary or benefits of the coordinator and his staff (pp. 4-5 of the H.D. 1). These positions have never been filled.

(5) Section 7 of the bill, which amends section 218-2, HRS, relating to the marine affairs coordinator, has been amended to delete or repeal all provisions relating to the salary or benefits of the marine affairs coordinator (pp. 12-13 of the H.D. 1).

(6) With respect to the three quasi-judicial boards or commissions in the executive branch covered by this bill (the Hawaii Public Employment Relations Board [HPERB], the Public Utilities Commission [PUC], and the Labor and Industrial Relations Appeals Board [LIRAB]), the salary amounts applicable to the members of those three boards, other than the board chairman--respectively effective on July 1, 1981 and July 1, 1982--have been amended to be identical to, or to coincide with, the salary amounts applicable under the bill (pp. 3-4 of the H.D. 1) to first deputies or first assistants of any department of the State (\$44,000 effective July 1, 1981, and \$48,400 effective July 1, 1982, rather than the respective amounts in the H.D. 1 of \$44,413 and \$48,854). (See pp. 6-7 of the H.D. 1 regarding HPERB; p. 14 regarding PUC; and p. 20 regarding LIRAB.)

(7) The same amendments made for the salaries or salary amounts of the members (other than the board chairman) of the three quasi-judicial boards, discussed in (6) above, have also been made in Part III of the bill for the salaries or salary amounts of the first deputy or first assistant to the respective heads of the three legislative agencies covered by this bill (the Legislative Auditor, the Director of the Legislative Reference Bureau, and the Ombudsman). (See p. 39 of the H.D. 1 regarding Auditor; p. 41 regarding Legislative Reference Bureau; and p. 43 regarding Ombudsman.)

The effect of these amendments is that these first deputies or first assistants in the legislative branch will receive the same salaries and salary increases applicable under the bill to first deputies or first assistants of any department of the State, as more fully indicated in (6) above, and also applicable, under the bill as amended by your Committee, to the non-chairman-members of the three quasi-judicial boards covered by this bill.

(8) Section 24 of the bill, which amends section 601-3, HRS, relating to the administrative director of the courts, has been amended so that the administrative director will receive the same salary and related salary increases, applicable under this bill, to State department heads (p. 32 of the H.D. 1).

Under the bill, as amended by your Committee, the salary of the deputy administrative director of the courts remains the same as currently fixed by statute--at 95% of the administrative director's salary.

(9) To conform with or to reflect your Committee's amendments to the salaries or salary increases of the executive, judicial, and legislative officers covered in Parts I, II, and III of the bill, your Committee has appropriately amended the appropriation figures contained in the respective appropriation sections of Parts I, II, and III for the three affected branches (executive, judicial, and legislative).

(10) Finally, technical, non-substantive amendments have been made to Parts IV and V of the bill, primarily in the form of correcting the capitalizations of certain words.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2759-82, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2759-82, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 791-82      Finance on S.B. No. 2346-82

The purpose of this bill is to allow the governor to control the amount of tax revenues spent to educate federally connected students in public schools if the amount of payment of federal funds available pursuant to 20 U.S.C. § 238 is unsatisfactory.

It should be noted that the estimated shortfall of \$3 million this year and an additional \$3 million next year, will not be limited to one or two years. If Impact Aid funds are lost, and not made up in some fashion, the State will be funding a recurring multi-million dollar bill each year in additional cost.

Your Committee finds that the federal Impact Aid Program (P.L. 81874), enacted in 1950, is essential to meet the educational costs of operating the public school system.

Your Committee agrees with the intent of this bill which is to ensure that the federal government provides adequate funding for the thousands of federally connected students enrolled in the State's public schools.

This bill allows the governor to enter into negotiations with the appropriate agency or entity of the federal government for the purpose of securing a reasonable portion of the cost incurred by the State to provide federally connected students with an education comparable to that provided to the children of its residents. This bill gives the governor the flexibility and leverage to negotiate with the federal government in order to ensure a properly functioning public education system.

Your Committee has amended the bill by expanding the meaning of federally connected student to the school-age children who reside on federal property or who reside with a parent who is either employed on federal property or on active duty in the uniformed services and is not a domiciled resident of the State.

Your Committee has further amended this bill by making nonsubstantive, technical and language changes to clarify the intent of this bill.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2346-82, 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. 2346-82, S.D. 2, H.D. 2.



Signed by all members of the Committee except Representatives Albano and Wong.

SCRep. 792-82      Employment Opportunities and Labor Relations on S.B. No. 1925

The purpose of this bill is to exclude registered, outside travel agency sales representatives from unemployment insurance and prepaid health care.

It is standard practice for these sales representatives to develop their own clients and contracts, control their own hours, set their own direction, and may negotiate their own terms within the limits of the agency's restrictions. Outside sales representatives are afforded the freedom to take their sales to any travel agent for authenticating travel tickets and arrangements, and to accept or reject terms offered them by the travel agent or to take their business to another agent offering more favorable terms.

A recent decision by the Ninth Circuit Court has declared the Prepaid Health Care Act, Chapter 393, HRS, null and void. Therefore, your Committee has amended this bill by deleting Section 2 which deals with Chapter 393, HRS.

For the purpose of consistency, your Committee has amended the bill by renumbering sections 3 and 4 to sections 2 and 3 respectively.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of S.B. No. 1925, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1925, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Albano, de Heer, Ikeda and Marumoto.

SCRep. 793-82      Finance on S.B. No. 2399-82

The purpose of this bill is to establish separate offices for the bank examiner and insurance commissioner, each to be placed within the Department of Regulatory Agencies for administrative purposes.

Under present law, the Director of Regulatory Agencies is deemed the bank examiner and insurance commissioner. This has resulted in an overly centralized administration of the regulated industries. Additionally, the size and importance of the financial institution and insurance industries have markedly increased in importance, size and complexity.

Your Committee agrees with the intent of the bill to establish separate offices for the examiner and commissioner, each to be included within the Department of Regulatory Agencies as separate offices within the jurisdiction of the Director.

Your Committee has amended this bill to add provisions to clarify the effect of this bill on other conflicting provisions that may be enacted by this 1982 legislature and to make other nonsubstantive changes.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2399-82, 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. 2399-82, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 794-82      Finance on S.B. No. 2829-82

The purpose of this bill is to provide funds for the acquisition and development of unspecified land resources for recreation, agricultural and conservation parks, historic and archaeological sites, water resources projects and public land banking. Your Committee has substantially amended the bill to provide appropriations for specific capital improvement projects throughout the state. Your Committee believes that the projects contained herein reflect the legislature's continued commitment to projects which reflect the needs and desires of the people of the state.

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



2829-82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2829-82, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 795-82          Finance on S.B. No. 1697

The purpose of this bill is to provide for the extension of the job-sharing pilot project in the department of education.

Your Committee finds that the job-sharing pilot project which was implemented in 1978-79 has gained widespread support. However, before considering making the program a permanent one, your Committee agrees that the number of positions should be increased and that the program should be allowed to test the pairing of two tenured employees. The extension of the program through the academic year 1983-84 should provide ample time to appraise these changes in the pilot program.

Your Committee has therefore amended this bill in the following principal respects:

- (1)      Extending the time limit until 1984.
- (2)      Providing that of the 200 job-sharing positions, no more than 50 positions shall be for paired tenured employees.

Your Committee strongly recommends that if any vacancy occurs in the paired tenured positions, that it be filled by paired tenured and untenured employees.

Your Committee has also amended the provision relating to the duty-free period to clarify the language in the last sentence.

Your Committee has further amended this bill to require a status report in January 1984.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1697, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1697, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 796-82          Consumer Protection and Commerce on S.B. No. 2561-82

The purpose of this bill is to safeguard a condominium's funds against misuse or misappropriation by those persons handling the funds.

Currently, the bonding requirement for a managing agent is \$25,000, while self-managed projects are required to carry a \$10,000 bond. Your Committee finds that the current bond requirements are inadequate, considering the amounts of money management companies handle for their clients.

This bill proposes to require a \$50,000 fidelity bond for each of the managing agent's condominium management contracts. The bill further proposes that evidence of fidelity bonds be provided by the managing agent to the real estate commission. Self-managed projects would have their bonding requirement increased from \$10,000 to \$50,000.

Your Committee has amended the bill to delete the annual evidence requirement as there has been no showing of any attempts at evasion of the bonding requirement.

Your Committee notes that one managing agent may manage several projects. This statute is not intended to make the bonding requirement cumulative in such cases but instead to require one bond regardless of the number of units or projects managed.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2561-82, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2561-82, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kawakami.