

## SPECIAL COMMITTEE REPORTS

## Spec. Com. Rep. 1

Your Committee on Credentials begs to report that it has examined the Letter of Appointment of Honorable W. Buddy Soares and finds that he is qualified to fill the vacancy in the Senate created by the resignation of State Senator Frederick W. Rohlfing for the Eighth Legislature of the State of Hawaii, Regular Session of 1976.

Signed by Senators Nishimura, O'Connor and Anderson.

## Spec. Com. Rep. 2

Your Interim Committee on Health authorized to conduct a series of public hearings on the School Health Services Pilot Project begs leave to report as follows:

The School Health Services Pilot Project, under the administration of the Department of Health is intended to provide direct emergency care and preventative health care services in the public schools. Its basic component is the placement of a health aide in each school to provide these services. Health aides are supervised by a school nurse who is responsible for a complex of schools, and who provides follow-up services when necessary.

The purpose of this Committee's hearings was:

- (1) To review progress of expansion activities related to the School Health Services pilot project and provide Legislative directional guidance
- (2) To review progress of activities related to recommendations set forth in the January 1975 legislative program audit (no. 75-2)
- (3) To receive public reaction to the January 1975 legislative program audit

During the interim, your Committee held hearings on the islands of Oahu, Maui, Molokai and Hawaii.

The Committee received testimony from both Department of Health and Department of Education officials, school nurses, health aides, and parents. Testimony included status reports on recommendations made in the legislative audit and discussion of other project issues and needs.

Status Report of Legislative Audit:

Recommendation: That the Departments of Health and Education, in consultation with the Attorney General, jointly resolve the medication problem confronting the non-project schools.

Status: The Department of Education is handling this problem by having parents or other adults with written parental permission come to the school to administer the medication to those children not able to take their own. The Department is making an evaluation before consultation with the Deputy Attorney General assigned to the Department of Health, to resolve the medication problem confronting the non-project schools.

Recommendation: That the Department of Health and Education establish a standard set of criteria for accident reporting and a common reporting procedure.

Status: A standard reporting form is currently being considered for use by the Department of Education.

Recommendation: That the Department of Health evaluate the need of mass height and weight screening.

Status: The Department of Health reported that mass screening of height and weight will no longer be done, but will continue to screen and follow up those children who obviously deviate from the normal standards.

Recommendation: That an evaluation be conducted of the record keeping and review procedures of pupil's health records to ensure compliance and maintenance of records.

Status: The format of pupils' health record have been revised. Schools without health aides are keeping records and maintaining records with existing staffs and volunteer parents. The immunization catch-up program completed last school year and the enforcement of Act 51 has brought records for new entrants up-to-date for nearly 99% of these students.

Recommendation: That standards for school nurses and health aides be established on a more rational basis than those presently being utilized.

Status: The Department of Health reported that within the constraints of Act 130, one health aide/school and one school nurse/complex, the Branch Chief has attempted to adjust the staffing standards to include consideration of geographic location, socio-economic composition and school enrollment.

Recommendation: That the Department of Education enforce the current Red Cross First Aid certification requirement for the principal or his designate.

Status: This responsibility has been charged to the Department of Education's Master Plan on Improving the School and Library Environment.

#### Project Issues Identified:

Although different school complexes varied in stages of program development, project issues and needs proved to be similar throughout.

These issues are as follows:

(1) Your Committee finds that problems connected with the student/health aide ratio still prevail. This is caused by the restriction set forth in Act 130-70 which allots one health aide per school, but does not account for varying school population sizes.

Recommendation: Your Committee recommends that Act 130-70 be amended so that the deployment of health aides is based on a reasonable ratio of student population.

(2) Your Committee finds morale problems due to the tentative job-status of health aides. They feel that the program is beyond the point of "demonstration" and request that it be considered as a viable, on-going program under which they can receive permanent status in lieu of the present year-to-year contracts.

In addition, health aides expressed low morale related to the wage structure. Health aides with seniority are paid the same wages as new health aides who are entering the program; no compensation is made for experience. Also, the pay is considered to be inadequate for the level of work the health aides are carrying; for instance, health aides are currently receiving less pay than custodians.

Recommendation: Your Committee recommends that the Department of Health, in conjunction with the Department of Education, study the seniority and salary needs of health aides and develop a wage scale that addresses these needs. Upon completion of this scale, your Committee recommends that health aides be given permanent status, as the program and their services have proven to be successful. Your Committee requests that the above mentioned departments address this recommendation and provide a status report to the President of the Senate at least 20 days prior to the end of the 1976 Legislative Session.

Signed by Senators Chong, Takitani, Ching, Nishimura, Henderson and Saiki.

Spec. Com. Rep. 3

Your Interim Committee on Housing and Hawaiian Homes, requested to review the State's Land Reform Act, Chapter 516, HRS, pursuant to Senate Resolution 34, SD 1, entitled: "Requesting a Review of the Land Reform Act," begs leave to report as follows:

#### BACKGROUND

SR 32, SD 1, passed by the Senate on the 54th day of the 1975 legislative session, reflected your Committee's recommendations at that point in time; six days later, however, the successful Managers on the part of the Senate recommended passage of Senate Bill 1200, SD 2, HD 1, CD 1 proposing comprehensive amendments to the Land Reform Act. Additionally, an appropriation of \$1.3 million providing cash funding

for a "test case" condemnation was included in the State budget.

SB 1200, SD 2, HD 1, CD 1, was signed into law as Act 184, SLH 1975, and the Hawaii Housing Authority revised their Rule 10 governing Ch. 516, HRS. Funding for the "test case" condemnation was released by the Governor on September 18, 1975.

The Puulena tract in Manoa was selected for the "test case" condemnation, and public hearings and other administrative mechanisms were activated as provided by Act 184.

The procedural time-frame for these administrative mechanisms enacted legitimately delayed the progress of the "test case" condemnation, and your Committee determined that an interim legislative public hearing to monitor the progress of the "test case" condemnation would be inappropriate. Your Committee, however, did meet with concerned persons and agencies, and received various suggestions on facilitating the implementation of Ch. 516, HRS.

#### FINDINGS AND RECOMMENDATIONS

##### Compensation to Lessors

Act 184 amended Sec. 516-24, relating to the compensation paid to a lessor upon condemnation. Concern has been expressed that the valuation method selected to determine this compensation paid to lessors is inequitable to lessees. Various alternate valuation methods have been proposed, and your Committee, not having the technical expertise necessary to analyze this complex, specialized issue, informally requested the Attorney General to make a recommendation on an equitable formula for compensation. This technical recommendation, hopefully, will be forthcoming during the 1976 legislative session.

##### Buy-Back Restriction on Prospective Purchasers

Act 184 also amended Sec 516-35, Restriction on Sale and Use of Residential lots, to provide for a 10 year right of first refusal "buyback" by the Authority. Your Committee will recommend technical amendments to clarify provisions of this section.

##### Use of Land Exchange Power

Due to unresolved legal questions regarding the constitutionality of Ch. 516, HRS, the State's Bond Counsel has not approved the issuance of bonds for the purposes of financing the condemnation of development tracts. Your Committee, last session, recommended a land exchange mechanism to facilitate the implementation of the Act, which would obviate the necessity for the floating of bonds. Your Committee recommends that the Hawaii Housing Authority do everything possible to utilize the land exchange powers granted under Act 184 to "finance" the condemnation of development tracts.

##### Inclusion of Condominiums Under Ch. 516, HRS

Your Committee is concerned that leasehold condominium owners, in the near future, may be subjected to the same situation that leasehold single-family dwelling owners are now facing. Your Committee recommends that the Legislative Reference Bureau study the implications of the inclusion of condominiums under Ch. 516, HRS.

Signed by Senators Young, Toyofuku, Kuroda, Nishimura, F. Wong,  
Yim, Anderson and Henderson.

Spec. Com. Rep. 4

Your Senate Committee on Human Resources appointed pursuant to House Concurrent Resolution No. 85 and House Resolution No. 491, adopted by the Regular Session of 1975 to review the progress, performance and working relationships of the Commission on Children and Youth, Community Coordinated Child Care Committee and all agencies, offices and departments with program responsibilities for child development and youth services, begs leave to report as follows:

Although both H.C.R. No. 85 and H.R. No. 491 refer to the "Community Coordinated Child Care Committee," it should be noted that the name of this committee as designated in Section 581-2, Hawaii Revised Statutes, is the "Coordinated Child Care Committee." In accordance with H.C.R. No. 85, your Committee conducted its interim review jointly with the House Committee on Youth and Elderly Affairs. Both Committees will report their findings and recommendations to the President of the Senate and the Speaker

of the House respectively.

#### BACKGROUND

Act 294, Session Laws of Hawaii 1949, established the Commission on Children and Youth and charged it with the responsibility of recommending policies and programs relating to children and youth to the Legislature through the Governor's Office. The Commission was additionally responsible for encouraging local community action where identified gaps in youth services existed as well as promoting plans to control juvenile delinquency.

Since its inception, the commission has undergone three major reorganizations. The first occurred with statehood when Act 1, Session Laws of Hawaii 1959, changed the status of all departments, boards and commissions from territorial to state designation. With the conversion of the Revised Laws of Hawaii to the Hawaii Revised Statutes in 1969, provisions relating to the State Commission on Children and Youth were placed under Chapter 581, HRS.

The second and more substantive change came in 1971 when Act 107 drastically reorganized the commission's role from a passive and advisory function to one which would be action-oriented, innovative, and preventive. The commission was restructured as an umbrella agency with two working subcommittees: the Coordinated Child Care Committee (4C's) to be responsible for children from conception through twelve years old; and the Action Committee for Young Adults (ACYA) to be responsible for children from ages thirteen through twenty-four.

According to House Standing Committee Report No. 867 of the 1971 Legislature, the proposed Coordinated Child Care Committee in the Commission on Children and Youth was designed to meet the Department of Health, Education and Welfare priorities in coordinating child development funds and programs. Federal funds were to be used to staff this committee. In particular, the Coordinated Child Care Committee was expected to be extremely useful in coordinating the pre-care programs of the Department of Social Services. The proposed Action Committee for Young Adults was designed to provide a structure through which young adults can propose changes in delivery of services to the youth of the State. Other changes involved organization and composition. The commission was transferred from the Department of Budget and Finance to the Governor's Office thereby designating the Governor's Office as the expending agency. At least one-third of the commission's members were to be less than twenty-five years of age, ex officio and specialist membership were removed, and membership was increased to not less than 21 and no more than 31. Greater autonomy for the county committee on children and youth was also provided.

The most recent changes to the commission's organization occurred pursuant to Act 209, Session Laws of Hawaii 1973. In order to develop a systems approach to comprehensive, coordinated planning and delivery of child development services for children through age twelve, the following responsibilities were placed with the commission's sub-committees:

- (1) Sponsor, stimulate, organize, and, if necessary, conduct action research and demonstration projects in support of child and youth development and prevention and control of juvenile delinquency;
- (2) Develop plans and integrate planning for services and programs, relative to children and young adults; and
- (3) Coordinate and mobilize resources, both public and private, which address problems and enhance opportunities for children and young adults.

Currently, the commission is comprised of 31 citizens appointed by the governor with the advice and consent of the Senate. Its present responsibility is to serve the governor and the Legislature in an advisory capacity, as well as to:

- (1) Plan, coordinate and review children and youth programs and services throughout the State;
- (2) Initiate, innovate, review and evaluate children and youth programs, services, and agencies; and
- (3) Recommend legislative and executive action relative to children and youth.

APPROACH TAKEN

On November 18, 1975, your Committee held a joint hearing with the House Committee on Youth and Elderly Affairs to review the Commission on Children and Youth and its two statutorily established subcommittees--the Coordinated Child Care Committee and the Action Committee for Young Adults. Both authorizing resolutions requested your Committee to review the progress, performance and working relationships of the commission with other public and private agencies.

However, these tasks were undertaken by the Legislative Reference Bureau in the preparation of "an analysis of the operation of the Commission on Children and Youth" pursuant to a directive in the budget act, Act 195, of the 1975 Legislature. The report, Hawaii's Commission on Children and Youth--An Assessment of Its Organization, Management and Operation, was submitted to the Legislature in October 1975; and, therefore, your Committee focused on the findings and recommendations contained in the report.

Regarding the commission's administration and operations, the report found that: (1) the Commission on Children and Youth has been remiss in carrying out its responsibilities as outlined in Chapter 581, Hawaii Revised Statutes; and (2) a major overhaul of the commission's organization, systems, and processes is necessary if legislative goals for children and youth programs are to be fulfilled.

Testimony presented by two members of the State Commission on Children and Youth, one representing the commission and the other by the chairman of the Coordinated Child Care Committee supported the findings of the report. Your Committee was informed that the LRB's criticisms of the commission's failure to carry out its responsibilities, the uncertainties, confusion and conflicts relative to the roles of the commission, its executive secretary and its subcommittees, the lack of funds and inadequate staff, and other unresolved problems were warranted.

In view of the commission's unwieldy organizational problems, your Committee examined the proposed organizational plan recommended in the LRB report for possible legislative action at the coming 1976 session. In this regard, testimony was presented by the Legislative Reference Bureau which included the following recommendations:

- (1) Abolish the existing Commission on Children and Youth and replace it with an Office of Children and Youth to be located within the Office of the Governor;
- (2) Empower this office with the authority to effectively coordinate and implement programs and the delivery of services relating to children and youth;
- (3) Provide for a director of the Office of Children and Youth to be appointed by the governor and sufficient staff and resources to carry out its responsibilities;
- (4) Authorize the director of the Office of Children and Youth as directly responsible to the governor which would clearly define the office as operational rather than advisory; and
- (5) Establish an advisory council to the director of the Office of Children and Youth to facilitate coordination. This advisory council would be comprised of representatives from the general public and public and private agencies to be appointed by the governor with the director of the Office of Children and Youth serving as the chairman.

The proposed duties of the Office of Children and Youth would include:

- (1) Serving as a central, permanent, information-gathering and record-keeping clearinghouse for all public and private programs relating to children, young adults and their families;
- (2) Providing referral, resources, and consultative services to all public and private agencies involved with children and youth programs and services;
- (3) Reviewing existing children and youth programs and services;
- (4) Assessing the needs of children, young adults, and their families on a continuous basis;
- (5) Advocating the unmet and/or poorly met needs of children and young adults including gaps in services and making these known to the governor and the Legislature;
- (6) Keeping the public aware of the needs, programs, and services relating to

children and youth;

(7) Coordinating all efforts, programs and services relating to children and youth to avoid unnecessary duplication; and

(8) Evaluating innovative plans and programs as well as monitoring the conduct of pilot projects and other research efforts.

Based on our interim review of the Commission on Children and Youth your Committee is in accord with the findings of the office of the Legislative Reference Bureau. We support the Bureau's contention that effectuation of the extensive legal mandate of the commission requires a new mechanism based upon clear lines of responsibility, authority, and accountability. In support of these conclusions, your Committee presents the following recommendations.

#### RECOMMENDATIONS

Your Committee recommends that an Office of Children and Youth be established within the Office of the Governor to replace the existing Commission on Children and Youth and the existing Office of Information and Youth Affairs. Your Committee believes that this office should be headed by a director, appointed by the Governor, and responsible for the aforementioned duties of the Office of Children and Youth. We further recommend that the organizational setup of this office include three principal divisions. One of the divisions should be the Child Development Division administering to the needs of children from birth to age twelve. The second should be the Youth Affairs Division responsible for the needs of youths from ages thirteen through twenty-four. The third would be an administrative Division responsible to provide the necessary administrative and technical services.

With regard to the advisory council to the director of the Office of Children and Youth, your Committee has reviewed the proposal presented by the LRB and the modifications suggested by the Commission on Children and Youth. Your Committee believes that such an advisory council is a necessary element to provide a formal mechanism by which participation from the general public as well as the public and private agencies involved in programs and services for children and youth can be achieved. Your Committee also believes that both the LRB proposal and the modifications suggested by the commission are alike in concept, except for the commission's view that the word "advisory" is too limiting. In view of the overriding goal of enhancing public participation, your Committee believes that the concern should not be the nomenclature of the council as much as council membership. We, therefore, support the Bureau's recommendation that an Advisory Council for Children and Youth be established within the Office of Children and Youth.

Your Committee further recommends that the composition of the advisory council consist of 21 members, with seven as ex officio, voting members: the director of the Department of Social Services and Housing; the chairman of the Board of Education; the director of the Department of Labor and Industrial Relations; the director of the Department of Health; the senior judge of the Family Court, First Circuit; the Superintendent of Education; and the director of the Office of Children and Youth. Seven of the fourteen non ex officio members are to be representatives of private agencies engaged in the planning or delivery of services to children and youth, the remaining seven members to be, at the time of appointment, under the age of twenty-six. Of the fourteen non ex officio members, the counties of Hawaii, Maui, and Kauai shall have one representative each with the remaining eleven members representing the City and County of Honolulu.

The governor shall appoint the members of the advisory council on a staggered basis for a specified term. Members shall serve without compensation but shall be reimbursed for any expenses incurred in the performance of their duties as council members.

On occasions where any ex officio member is not able to attend meetings of the advisory council, the individual immediately subordinate to the ex officio member and authorized to act in the absence of the member shall attend. This substitute member shall be entitled to all rights, authority, and privileges of the appointed member.

The role of the advisory council shall be to serve in an advisory capacity to the Director of the Office of Children and Youth, the Governor, and the legislature on matters relating to programs and services for children and youth.

The governor may modify the composition of the advisory council whenever such

modifications may be required to comply with federal regulations for purposes of obtaining federal funds. Such modifications shall be subject to the review and action of the legislature.

It shall be the duty of every State department and county agency providing programs and services to children and youth to cooperate and assist the Office of Children and Youth in its performance of its function, powers, and duties.

Your committee recognizes the importance of the advisory council in assisting the director of the office of Children and Youth in carrying out the responsibilities of the office. Thus, your Committee strongly supports the appointment of high-level, experienced public administrators to the council because of the need for participation and commitment from other government agencies in order to ensure effectiveness of the office.

While mindful of the need for high-level public administrators on the advisory council, your Committee also recognizes the importance of community participation. Therefore, your Committee recommends that the majority of the members of the advisory council not be full-time, federal, state or county personnel in order to ensure broad based community involvement.

#### CONCLUSION

A close examination of the existing Commission on Children and Youth and its operations have led your Committee to develop the foregoing recommendations for the 1976 legislative session. Your Committee strongly believes that if the State is to progress, especially in the needy areas of child care planning, development, and implementation, such corrective action is necessary. A bill incorporating the recommendations made herein is attached.

Signed by Senators Toyofuku, Young, Chong, Taira, F. Wong, R. Wong, Yamasaki, Anderson, Henderson and Soares.

Spec. Com. Rep. 5

Your Interim Committee on Intergovernmental Relations, authorized to conduct further study during the interim, begs leave to report as follows:

#### BACKGROUND

During the 1975 legislative session, various planning councils were established: a State Policy Council was established to develop and coordinate a comprehensive policy plan to serve as a guide to future development of the State; a Statewide Transportation Council was established to assist in the preparation of a statewide transportation plan; the Oahu Metropolitan Planning Organization was created to develop transportation plans and policies for Oahu; an interim shoreline protection program was enacted to control shoreline development until the Coastal Zone Management Program is completed; and, a Government Organization Commission was established to study functions and services of State and County powers in order to consolidate similar services and eliminate duplications. Your Committee, aware of the potential for enhancing intergovernmental relations through communication with members of these councils, respectfully requested your permission to hold interim public hearings.

#### PUBLIC HEARINGS

Your Committee held a public hearing on October 14, 1975, and a "round-table" discussion on October 15, 1975, to investigate the differences in policies and objectives of the federal, State, and county governments in the fields of land use, transportation, and planning, and to examine the communication methods presently utilized by governmental agencies in notifying other agencies of their plans, programs, and policies.

Your Committee received testimony from Mr. Hideto Kono, Director, Department of Planning and Economic Development; Mr. E. Alvey Wright, Director, Department of Transportation; Mr. Richard Sharpless, Managing Director, City and County of Honolulu; Mr. Raymond Suefuji, Director, Planning Department, County of Hawaii; Mr. Brian Nishimoto, Director, Planning Department, County of Kauai; Mr. Elmer Cravalho, Mayor, County of Maui; Mr. Woodrow Stevens, Laie Community Association; Mr. Leonard Moffitt, Executive Director, Windward Regional Council; and Mr. Ralph Segawa, Division Administrator, Region Nine, Federal Highway Administration, U.S. Department of Transportation.

Representatives of the State Department of Planning and Economic Development, State Department of Transportation, City and County of Honolulu Managing Director's Office, County of Hawaii Planning Department, Government Organization Commission, and University of Hawaii Pacific Urban Studies and Planning Program participated in the "round-table" discussion held with your Committee.

#### FINDINGS AND RECOMMENDATIONS

##### FORMULATION OF THE STATE POLICY PLAN

One criticism of the present local land use planning system expressed was that the State has neither a "Master Plan", nor cohesive prioritized goals, nor uniform implementation policies; hopefully, the State Policy Council can resolve policy statements that will culminate in the formal adoption of the State "Master Plan". Your Committee recommends the following technical amendments to Act 189, SLH 1975, which created the State Policy Council:

The Council, comprised of county planning directors and various State department directors and chairmen, is charged with the development of statements of the general, social, economic, environmental, physical, and design objectives for the State Plan. Several cabinet-level officials with an active interest in the Plan were not initially included. Your Committee recommends that the membership of the Council be expanded to include the Directors of the Department of Health, Department of Social Services and Housing, and Office of Environmental Quality Control.

Since the State Policy Plan will have long-term implications on the development of the State, your Committee feels that public participation during the formation of the plan is required. Your Committee recommends that the public hearings mandated by Act 189 be scheduled during the formation, as well as upon completion, of the Policy Plan. Additionally, your Committee recommends that the Policy Council submit quarterly reports on the progress of the Plan to the Legislature.

##### INTEGRATION OF POLICIES WITHIN STATE GOVERNMENT

Testimony received at the public hearing indicated that it is not uncommon to find policy differences between various agencies within the State government. Inter-governmental relations can be enhanced considerably if integration of policies within the State government can be effectuated. Your Committee recommends that the State Policy Council study a clearinghouse process, as is now required for federally assisted programs, for application at the State-County interface to facilitate integration of consistent State policies.

During the 1975 legislative session an appropriation was made to examine the feasibility of updating, codifying, and centralizing all administrative rules and regulations. Although the Governor did not release funding for this project, your Committee is determined that this updating be effectuated for the purposes of clarifying any conflicts between regulations of State agencies, and subsequently improving inter-governmental relations. Your Committee recommends that the Legislative Reference Bureau procure all administrative rules and regulations, and review and modify these accordingly to eliminate duplications, inconsistencies, and conflicts.

##### IMPLEMENTATION OF STATE POLICIES

The delegation of physical planning mechanisms to the counties has precluded direct implementation of State policies, and created dysfunctional pockets of overlapping jurisdiction—a State policy to expand tourism by creating destination resorts in specific areas, for example, would be facilitated at the State level by the Land Use Commission, but could only be implemented to the extent that the county government concurs by zoning the area into "hotel" use. Your Committee recommends that the State Policy Council, in concert with the Government Organization Commission, clarify the roles of the State and counties in land use planning, and develop procedures and mechanisms for facilitating the implementation of the State Policy Plan. Your Committee further recommends that the Policy Council, in its development of statewide land use guidance policies, consider the feasibility of revising State land use categories to physically parallel the social, economic, environmental, and design objectives to implement the Policy Plan.

The Policy Plan can not and should not be implemented by the public sector alone. Your Committee recommends that the Policy Council develop mechanisms for the attraction of private capital to facilitate implementation of the Plan.



## CONCLUSION

The area of land use planning and land use controls is probably one of the most critical issues facing us today, and certainly requires close monitoring by the Legislature. Your Committee is hopeful that policies expressed through the State Policy Plan can be implemented through inter-governmental coordination and cooperation.

Signed by Senators Hulten, Kawasaki, Taira, F. Wong, Yamasaki,  
Young, George and Yee.

Spec. Com. Rep. 6

Your Senate Interim Committee appointed to review the public utilities program, begs leave to report as follows:

Your Senate Committee conducted its interim review of the state public utilities program jointly with the House Interim Committee on Public Utilities. Both committees will report their findings and recommendations to the Speaker of the House and the President of the Senate, respectively.

## APPROACH TAKEN

Your Committee conducted an indepth review and analysis of major aspects of the public utilities program of the State of Hawaii, including two volumes of the 1975 management audit of the public utilities program issued by the Office of the Legislative Auditor: The Organization for the Management of the Public Utilities Program (volume I); and the Regulation of Public Utilities (volume II).

Your Committee was initially briefed on the legislative issues involved in these volumes by the Legislative Auditor where many of the legislative issues involved in the public utilities program were identified and the audit's findings and recommendations were discussed.

A series of public hearings throughout the State were held in order to obtain comprehensive public testimonies relating to the subject matter contained in volumes I and II of the management audit. These hearings took place in Lihue, Kauai; Wailuku, Maui; Hilo and Kona on the Big Island; and in the State Capitol in Honolulu.

On the neighbor islands, numerous testimonies were received, including those from Mr. Henry Gomes, PUC member from Kauai; Kauai County Councilman Robert Yotsuda; Mr. Colin Murdock, President of Maui Electric Company, Limited and C. Dudley Pratt, Jr., attorney for Hawaiian Electric Company; Mr. James English of Maui Community College newspaper; Mr. William MacKenzie, President of Hawaiian Electric Light Company; and Mr. Jack Keppeler, Managing Director of Hawaii County.

At the public hearings held in Honolulu, your Committee received testimonies from the following persons: Mr. Mel Ishihara, Administrative Director representing the Public Utilities Commission; Mr. Wayne Minami, Director of the Department of Regulatory Agencies; Mr. Tany S. Hong, Deputy Attorney General; Mr. Joshua Aagsalud, Director of the Department of Labor and Industrial Relations; Mr. Hideto Kono, Director of the Department of Planning and Economic Development; Mr. Lawrence K. Hao, Assistant Highway Safety Coordinator, Department of Transportation; Mr. Carl Williams, President, Hawaiian Electric Company; Mr. Andrew Ing, Financial Vice President, Hawaiian Electric Company; Mr. John D. Field, Revenue Requirements Vice President, Hawaiian Telephone Company; Mr. Joseph A. Pelletier, Executive Vice President, GASCO, Incorporated; Mr. Lloyd F. Char, President, Hawaii Cable Television Association; Mr. Ted Merrill, President, Statewide Telephone Users Committee; and Mr. Shoji Okazaki, representative of ILWU Local 142.

## FINDINGS AND RECOMMENDATIONS

The focus of the Committee's interim work was on legislative issues concerning the organization and general management of the public utilities program, and the regulation of public utilities, as contained in volumes I and II of the Legislative Auditor's management audit. Therefore, your Committee's findings and recommendations are addressed primarily to the concerns raised in these audit reports.

### VOLUME I - The Organization for the Management of the Public Utilities Program

1. Primary Objective of Public Utilities Regulation

We agree with the Legislative Auditor that Hawaii's public utilities program currently consists of a wide intermixture of regulatory activities which have diverse, competing and sometimes conflicting objectives, and that the program is being administered or affected by a variety of governmental agencies whose functions and roles are often unclear and uncoordinated. We agree conceptually that there can be a more meaningful sorting out and definition of objectives, activities, functions and roles so as to provide a clearer focus and an ordering of priorities within the field of public utilities regulation.

Your Committee therefore recommends that the Legislature make a determined effort to define and separate economic regulation functions and organizational roles, and that these be clearly assigned to the Public Utilities Commission, with noneconomic regulatory functions assigned to agencies other than the PUC.

## 2. Full-Time Public Utilities Commission

Your Committee has found that, because of the heavy workload demands undertaken by the commission, the present part-time Public Utilities Commission should be changed to a full-time body. A full-time commission would provide better staff direction and supervision and would enable the commission to engage in more planning in the public utilities field.

## 3. Sufficient, Independent Staff for PUC.

Your Committee firmly believes that the PUC should have its own independent staff under its direct supervision. Such staff should have the expertise and experience necessary and essential to cope with the very large and complex tasks of the PUC, to facilitate decision making in the public utilities field, and to handle other filing and administrative functions.

## 4. Director of Regulatory Agencies and its Staff (Public Utilities Division) to be Consumer Advocate

The Legislative Auditor found that, within the State's overall program structure, the PUC is designated as the consumer protection agency, while in actual fact it is primarily concerned with economic decision making. The public utilities division (PUD) is presently caught in the untenable position of serving two masters with different functions and objectives--the PUC for decision making, and the Director of Regulatory Agencies for consumer advocacy.

Your Committee agrees that there should be a clear separation between economic decision making (PUC) and consumer advocacy (PUD) in the utilities field, and recommends that the Director of Regulatory Agencies and his public utilities division (PUD) staff be designated as the consumer advocate in the public utilities field with the right to participate in all PUC proceedings.

## 5. Relocation of PUC

In keeping with the view that the functions of the PUC be kept separate from that of the public utilities division, your Committee recommends that, for administrative purposes, the PUC be relocated to an appropriate existing department other than the Department of Regulatory Agencies which presently houses both the PUC and PUD. It is also recommended that, with the placement of the PUC in an appropriate agency, the head of such agency shall have no authority to revise or modify budgetary requests made by the PUC, as in the case of the Hawaii Public Employment Relations Board.

## 6. Qualifications, Salary, Term and Number of Public Utilities Commission Members

Your Committee recommends that the PUC be constituted as a body which will be representative of the various public and private interests and concerns in the public utilities field. With regard to the number of commissioners, your Committee recommends two options: (1) one full-time chairman with four part-time commissioners representing the four counties (total of five commissioners); or (2) three full-time commissioners.

Your Committee requests that the Legislative Auditor further study the matter of term of office and make specific recommendations thereon for each of the two proposed options mentioned above, including adequate compensation.

## 7. Regulation of Cable Television

Regulation of cable television (CATV), although part of Hawaii's public utilities program, is administered by the cable television division rather than the PUC. The

Legislative Auditor has recommended that CATV be placed under the PUC because it is a more effective and efficient means of regulating CATV on a separate, specialized basis or as part of the overall program for regulating utilities, and because CATV regulation is not large enough to justify and support a regulatory staff which must largely duplicate the PUC staff.

After due deliberation on the matter, your Committee recommends that the status quo be maintained at the present time. Since this is a transitional period for the reorganization of the PUC, your Committee feels that the relocation of CATV regulation be considered subsequent to the transitional period of the PUC.

#### 8. Reorganization of PUC, Transitional Period

In deliberating on the period of transition during which the PUC shall be reorganized, it was generally agreed that the new full-time commission should be in operation not later than July 1, 1976. However, prior to this date, every effort should be made to achieve full operational status as far as staffing and funding.

#### 9. Jurisdiction of PUC in Policy Making, Adjudication and Administration in the Public Utilities Field

The Public Utilities Commission has combined together the processes of policy making, adjudication, and administration, but this has been frequently criticized as inter-mixing distinct processes and detracting from overall effective regulation. However, the Legislative Auditor has stated that in the absence of clear evidence that separation is desirable, the PUC should be vested with full authority (policy making, adjudicatory and administrative) over those activities with economic objectives.

Your Committee agrees with this view and believes utility regulation can be performed most effectively and efficiently by continuing to combine the processes of policy making, adjudication and administration.

#### 10. General Managerial Improvement in the Regulation of Public Utilities

The Legislative Auditor has made numerous recommendations for administrative changes and managerial improvement in the public utilities program. Your Committee is in general agreement with the Legislative Auditor. In particular, it is recommended that more expertise in the Attorney General's Office, as well as in the PUC, be developed. It is also recommended that additional funding be provided for education and training in these agencies, as well as for the continual revision and upgrading of PUC rules and regulations.

### VOLUME II - The Regulation of Public Utilities

#### 1. Efficiency in the Utility Rate Making Process

Your Committee agrees with the Legislative Auditor's finding that the present long and drawn-out utility rate making process is detrimental to both the utility companies as well as the consumers. Accordingly, your Committee recommends that staff resources for the PUD, PUC and attorney general be strengthened and, as recommended by the Legislative Auditor, that appropriate duties for staff be clearly defined and assigned in order to enable and facilitate advance planning for all rate cases; that operating procedures for handling rate matters be established and that effective guidelines for rate matters be developed.

#### 2. Adoption of the "File and Suspend" Concept

Your Committee recommends that as an additional approach towards achieving efficiency in the utility rate making process, the Legislature should adopt the "file and suspend" concept.

Under the "file and suspend" concept, increases in utility rates, fares and charges may be effected in a manner similar to nonrate increase actions, upon 30 days notice, subject to suspension action by the commission. In addition, a temporary increase in rates, fares and charges may be authorized upon a showing by a public utility of probable entitlement thereto. Under the concept, the commission will have the power to suspend rate increase applications for a period of six months or 180 days. After that period of time, two-thirds of the rates sought may become effective, if the commission has not rendered its decision. Rates placed into effect, pending final action by the commission, will be subject to refund at the legal interest rate in accordance with such final action, as may be ordered by the commission.

It should be emphasized, however, that under this concept the PUC should have the full authority to require that there is sufficient data submitted at the time of filing of the application for a rate change and that the tolling of the time period shall begin only after there is filled a completed application supported by sufficient data.

### 3. Emphasizing Efficiency and Adequacy of Service in Utility Operation

Your Committee is in general agreement with the Legislative Auditor's finding that presently the rate making process primarily focuses upon utility company profits and costs, rather than upon the efficiency of utility operations and adequacy of services.

Your Committee concurs with the auditor in recommending that the PUC institute a program of continuous surveillance which will include: (1) a periodic study of management efficiency by the utility companies; (2) the development of long and short range objectives by the utilities to which all utility rate and budget submissions will be linked; and (3) examination of all major utility capital expenditure proposals in the form of appropriate cost-benefit studies.

Your Committee further agrees with the auditor's recommendation that all affected parties seek jointly to devise new formulas which will reduce or eliminate the dependence on cost-plus approach to rate making, and provide incentives for utility companies to achieve more efficient and economical operations.

### 4. Freer Intervention by Third Parties in the Rate Making Process

Your Committee feels that the rate making process should be made more accessible to the diversity of interest groups by allowing greater third party intervention in rate cases. It is therefore recommended that greater use should be made of the procedure to allow third parties to intervene in accordance with rules and regulations.

### 5. Tariff Filings Which Do Not Involve Rate Increases

Your Committee concurs with need for adequate public notice of proposed changes in nonrate increase matters and assurance of proper indepth regulatory review of such changes. It is therefore recommended that rules and procedures be established by the PUC for the simplified handling of nonrate increase matters.

### 6. Fuel Oil Adjustment Clause

Your Committee is generally in agreement with the Legislative Auditor's observations with regard to the present practice of allowing the automatic adjustment of gas and electric utility rates to reflect changes in the cost of fuel oil. Moreover, the fuel oil adjustments should be carefully examined by the utility regulators, so that inequities and overcharging can be corrected.

Your Committee is cognizant of the fact that fuel oil, including diesel fuel, is a significant cost of utility energy production and is subject to fairly frequent and sometimes wide fluctuations in price. Due to the time-consuming nature of utility ratemaking, the PUC has developed an automatic device for adjusting energy utility rates to reflect fluctuations in fuel oil costs as they occur. The fuel adjustment mechanism appears to rest on doubtful legal grounds because it does not seem to be contemplated or provided for by law. Hawaii Revised Statutes, section 269-16, appears to require a public hearing process for all rate increases.

The fuel adjustment mechanism:

- Appears never to have been subject to separate investigation and careful analysis.
- Receives scant attention during regular rate cases.
- Escapes close scrutiny, careful analysis, and continuous monitoring on the part of utility regulators during intervals between rate cases.
- Does not require any sort of advance public notice before being put into effect.

As a result, consumers in recent months have been caught by surprise by vastly increased energy utility bills and in many cases seem to have been the victims of overcharging and highly inequitable treatment.

Your Committee concurs with the Legislative Auditor in his recommendation that a thorough examination be made of the fuel oil adjustment mechanism in Hawaii, including:

- Careful review of the legal validity of existing fuel oil adjustment clauses.
- Formulation of uniform rules and regulations governing the application of fuel oil adjustments.
- Development of internal procedures to ensure careful analysis of all fuel oil adjustment formulas.
- Maintenance of continuous oversight of the implementation of fuel oil adjustment clauses.
- Provision of adequate public notice of all impending increases in rates resulting from the application of fuel oil adjustment clauses.

Your Committee believes that an appropriate procedure for the handling of fuel adjustments should be set forth in either statutory form or in rules and regulations of the PUC. Further review and study of this question should be under-taken in the forthcoming legislative session.

Your Committee also believes that stringent civil or possibly criminal penalties should be provided for companies which knowingly submit erroneous information in this area with the intent of overcharging the public. Here, too, a further review during the forthcoming legislative session is recommended.

#### 7. Matters Which Should be Handled Internally by the PUC or Other Appropriate Agency

Your Committee has examined several other recommendations regarding the regulation of public utilities made by the Legislative Auditor. These include: ways to improve regulation of the quality of utility services so as to insure fair and adequate consideration of consumer interest; the development of a comprehensive system for complaint-handling by the PUC; the establishment of rules governing credit policies and practices in the utilities field; the need for improvements in the area of ensuring proper representation of Hawaii's interests before federal regulatory bodies; the improvement of regulations covering utility company programs and practices involving capital improvements, line extensions and promotional activities; and the need for an integrated approach toward the interrelated subjects of economic regulation and environmental protection in the public utilities field.

Your Committee is in general accord with these observations and recommendations. Your Committee feels, however, that these matters should be handled internally by the PUC or other appropriate agency subject to legislative review.

#### 8. Application of Antitrust Law

The Legislative Auditor has recommended that a coherent, consistent and coordinated approach be taken to antitrust matters in the public utilities field and that there be clarification of state policy and the formulation of appropriate statutory amendments to implement the policy.

Your Committee has agreed that its co-chairmen communicate with the attorney general on this matter in order to obtain a clear understanding of the scope and extent of possible application of antitrust laws in the public utilities field. Such communication will be made prior to the next legislative session.

#### CONCLUSION

Your Committee wishes to extend its appreciation to the Office of the Legislative Auditor for its comprehensive management audit relating to the State's public utilities program and to the large contributions made by the various persons, organizations and governmental agencies during this review of the program.

Appropriate bills and resolutions, in accord with the general guidelines outlined in this report, are being prepared for the forthcoming session by the Office of the Legislative Auditor.

Your Committee feels that, while much has been accomplished, there is still much to be done. Steady progress in the establishment and implementation of improvements in the public utilities field is anticipated; however, the task for reviewing, evaluating and monitoring the many difficult and complex issues and problems in this field will

require continual legislative efforts.

Signed by Senators Taira, Takitani, Kawasaki and Leopold.

Spec. Com. Rep. 7

Your Interim Committee on Consumer Protection authorized to conduct further study on various topics within the jurisdiction of the Committee, begs leave to report as follows:

#### PUBLIC HEARING

Your Committee held a public hearing on December 3, 1975, to investigate recent developments in the areas of no-fault auto insurance, the Landlord-Tenant Code, and the Office of Consumer Protection.

Your Committee received testimonies from several interested parties:

##### No-Fault

Mr. David Ishikawa, State Auto Insurance Commissioner, presented testimony on the no-fault auto insurance system which included a summary of significant requirements of the program, a statistical classification of claims and complaints, perspectives on problems encountered, and implementation policies of the Motor Vehicle Insurance Division.

##### Landlord-Tenant Code

Mr. Gordon Uechi, attorney for the Office of Consumer Protection, presented testimony describing six amendments to the Landlord-Tenant Code proposed by the Office.

Mr. Wayson Chow, attorney for the Legal Aid Society of Hawaii, presented testimony describing seven amendments to the Landlord-Tenant Code in regard to retaliatory eviction, landlord's obligations, security deposits, and tenants remedies being proposed by the Society.

##### Office of Consumer Protection

Mr. Walter Yamashiro, Director of the Office of Consumer Protection, presented testimony summarizing his Office's accomplishments, which included the filing of lawsuits, giving speeches, and initiating an outreach program whereby investigators receive complaints and disseminate materials to outlying communities. He stated that his Office is drafting rules on advertising by merchants as authorized by the legislature. Mr. Yamashiro also stated that the recently enacted restitution law should be amended.

#### FINDINGS AND RECOMMENDATIONS

##### STUDY TO INCLUDE "PROPERTY DAMAGE" UNDER HAWAII'S NO-FAULT LAW.

The Hawaii no-fault insurance law was patterned after the Massachusetts law, and the exclusion of property damage from no-fault arose out of a recommendation from the Massachusetts Insurance Commission. Since then, Massachusetts has converted to a pure no-fault system.

Your Committee recommends that the State monitor the experiences of Massachusetts in this regard in the consideration of including property damage under Hawaii's no-fault auto insurance system.

##### COUNTY IMPLEMENTATION OF STATE POLICY: INSURANCE AS A CONTINUING REQUIREMENT OF VEHICLE LICENSURE.

Since enactment of the no-fault auto insurance law, approximately 50% of those uninsured motorists procured auto insurance. However, 10% of all motorists are still uninsured.

Your Committee recommends that the State develop coordination between the licensure of automobiles and the automatic reportage of cancellation or lapse of insurance policies through the existing electronic data processing systems.

##### ESTABLISHMENT OF AN OFFICE OF RESIDENTIAL LANDLORD-TENANT RELATIONS

Since enactment of the Landlord-Tenant Code in 1972, the Office of Consumer Protection has been providing counsel for tenants in proceedings brought by or for a landlord.

Now, twenty-seven percent of the Office's ten investigators' time is spent on servicing tenants. The heavy reliance on the courts and the Office of Consumer Protection increases the burden of each, and results in extended delays in the resolution of problems, as well as reduction in the capability of the Office to deal with other consumer concerns.

Your Committee recommends the establishment of an Office of Residential Landlord-Tenant Relations to serve as a public information source as to the Landlord-Tenant Code and as an administrative forum for hearings on Code disputes to promote fairness and fulfill a compelling need to assure adequate access to assistance and information to all. While this may take a year or so, it is recommended that the Landlord Tenant Code be amended to permit the Office of Consumer Protection to provide services to small landlords.

#### AMENDMENTS TO THE LANDLORD-TENANT CODE TO STRENGTHEN PROTECTION AGAINST RETALIATORY EVICTION OR RENT INCREASE

The present law provides tenants protection from retaliatory eviction or rent increase: when a tenant has complained to a governmental agency regarding the conditions affecting his dwelling unit; when a governmental agency has filed a notice or complaint of a violation of health law or Landlord-Tenant Code; when the tenant has in good faith requested repairs in conformity with the Code.

Your Committee recommends that the State consider forbidding retaliatory eviction or rent increase in cases where a tenant has organized, become a member of, or become involved in any activities of a tenant's union or similar organization.

#### AMENDMENTS TO THE CONSUMER RESTITUTION LAW

Act 99, SLH 1975, amended Ch. 487, HRS, by authorizing the Office of Consumer Protection to seek restitution for consumers defrauded by individuals or businessmen. However, the Act provided that restitution be allowed only to those who had filed a complaint with the Office prior to a lawsuit being filed.

Your Committee recommends that the consumer restitution law be amended to allow restitution to all consumers defrauded by an individual or company.

#### GOVERNMENT REORGANIZATION: STUDY THE RELOCATION OF THE OFFICE OF CONSUMER PROTECTION

Act 127, SLH 1965, designated the State Attorney General as the consumer counsel; by 1967, \$35,000 had been appropriated for use by the Governor's office to coordinate and develop consumer protection functions under the Department of Regulatory Agencies; Act 175, SLH 1969, created the Office of Consumer Protection within the Office of the Governor.

The State of Hawaii has fallen into the pattern of placing many new executive agencies, which cannot be easily assigned to one of the existing departments, within the Office of the Governor. This often happens either because the proposed office serves a new purpose and it is not conceptually clear where it belongs, or because of political concerns.<sup>1</sup>

Your Committee recommends that the Government Organization Commission study the relocation of the Office of Consumer Protection.

<sup>1</sup>Legislative Reference Bureau, Sanctify the Scales... A Study of Consumer Protection in Hawaii (January, 1975) p. 123

Signed by Senators Kuroda, R. Wong, Kawasaki, O'Connor, Leopold and Saiki.

Spec. Com. Rep. 8

Your Interim Committee on Human Resources to which was referred SR No. 115, SD 1 entitled: "SENATE RESOLUTION REQUESTING AN INVESTIGATION OF POSSIBLE ABUSES OF THE UNEMPLOYMENT INSURANCE SYSTEM", begs leave to report as follows:

#### BACKGROUND

In recent years, the costs of providing unemployment compensation benefits have increased at a very rapid rate. Since 1970, the benefits paid out have exceeded the amounts of contributions and interest paid into the Unemployment Insurance Trust Fund. In 1970, payments totaled \$14.7 million while contributions and interest were

\$15.7 million. In 1974, payments were \$35.3 million while contributions and interest totaled only \$27.6 million. As a result of this trend of payments exceeding contributions, the trust fund balance has declined from \$44 million in 1970 to \$5.3 million as of December 31, 1975.

The department of Labor and Industrial Relations expects this decline to continue into 1976. They estimate that they will require loans from the federal government of \$2 million for January and \$3 million for February. They further project at this time that even with these federal loans to replenish the fund, the balance at the end of February will only be \$3.4 million.

As trust fund balance continued to decline and the tax rate on employer contributions increased to the maximum rate of 3%, public outcries of claimant abuses of the unemployment benefits program and the need for reforms in our unemployment insurance laws began to surface. Employers, faced with escalating benefit payments to an increasing number of jobless workers and a fast diminishing UI trust fund, requested a legislative review of our unemployment insurance program. This led to the passage of SR No. 115, SD 1 which directed your Committee on Human Resources to conduct an investigation on the possible abuses of the unemployment insurance system.

This report contains your committee's findings and recommendations in regards to this investigation.

#### FINDINGS AND CONCLUSIONS

Your Committee on Human Resources finds that claimant fraud and abuse of the unemployment insurance program does exist to some degree. However, your Committee concludes that our present high unemployment rate, is the primary cause of the current drain on the trust fund. A secondary cause is the fraud and abuse of the program.

Your Committee finds that there is a need for tighter administrative controls to discourage claimant fraud and abuses of the UI program. There is a need to properly enforce, investigate and control the "leaks" in our UI program.

Depletion of UI trust fund. Our unemployment problem had its beginnings in the middle of 1970 when the construction boom of the sixties ended. Since then, except for a slight rebound in 1973, our economy has been adversely affected by several maritime dock strikes, the energy crisis, the shortage of credit in the money market, and a slowdown in tourism due to a continuing recessionary economy both on the mainland and internationally. The cumulative effect of these adverse economic happenings was to increase the number of persons unemployed in Hawaii. In 1969, our total unemployed was 8,820. In 1974, this total had increased to 27,160. As a result of this increased unemployment, it was only natural that the number applying for and receiving unemployment benefits increased substantially during this same period of time. Thus, the current drain on our UI trust fund is caused by our rising unemployment and is not attributable to any widespread abuse of the program.

Need for tighter administrative controls to discourage claimant fraud and other abuses. Besides the drain on the UI trust fund caused by the increasing number of persons becoming unemployed, there is a secondary drain caused by claimant abuses and fraud. Our investigation did not reveal the existence of any widespread abuse but it did substantiate the existence of some abuse. Based on testimony presented to your Committee, the principle types of abuse appear to be claimant fraud and dishonest reporting by some claimants of their efforts to secure employment. We find that the existence of these abuses is not attributable to any weaknesses in the current UI laws. The laws, as currently written, have adequate provisions to control these abuses. The weakness lies in certain administrative practices of the department of labor and industrial relations. These administrative weaknesses consist of a too "lenient" application of the options available under the law in dealing with claimant fraud and those voluntarily unemployed and the lack of an adequate system in verifying a claimant's actual attachment to the labor market.

The existence of claimant fraud is substantiated by a report on a study of claimant abuse conducted by the department which states that approximately 2.5% of a total of 9,822 cases checked during the fiscal year ended June 30, 1974 were determined to involve fraud. The total UI benefits paid out to these fraudulent claims amounted to \$44,748. As a deterrent against claimant fraud, the department proposed a revision of the UI laws which would increase the penalties for fraud. Currently, the department has two options under the law. One is to disqualify the claimant from UI benefits for 52 weeks. The other is criminal prosecution. In addition, both options require the claimant to repay the benefits wrongfully collected. The application of the criminal



prosecution option should be used more often. Past practice of the department has been to select the administrative disqualification route. Your Committee believes the more effective deterrent to claimant fraud is criminal prosecution accompanied by wide dissemination of these cases in the local media to discourage future attempts of a similar nature. We, further believe that enactment of legislation to assess a 10% penalty for the sums of monies wrongfully collected by the claimant is desirable.

Besides the need to more effectively utilize the option of criminal prosecution in cases of claimant fraud, the department also needs to reverse its tendency toward "leniency" in interpreting and applying certain sections of the UI laws. There are two areas in which administrative controls and practices should be tightened. One of these areas is the department's application of the disqualification provisions of the law applicable to those claimants who either quit their jobs without good cause or who lose their jobs because of work connected misconduct. The current law provides for the disqualification of these claimants from UI benefits for a period of 2 to 8 weeks, the length of disqualification for each case to be established at the discretion of the department. The practice of the department has been, in most cases, to disqualify these claimants for periods ranging from 2 to 5 weeks. Such a lenient application of the law does not act as an effective deterrent against irrational and irresponsible job behavior. So long as employees who have no real interest in working are aware of the fact that they can easily qualify for UI benefits only 2 to 5 weeks after their quitting or losing their jobs, economic hardship is no longer a material factor in discouraging such behavior. In these cases the department should impose the maximum allowable disqualification period of 8 weeks.

Furthermore, the committee should consider the department proposal to enact legislation where individuals who voluntarily quit their jobs without good cause, individuals who are discharged or suspended because of work connected misconduct, individuals who refuse to accept suitable employment, retirees, who voluntarily remove themselves from the work force, would have to requalify for unemployment benefits by subsequent employment.

This proposal is based on the rationale that such individuals are voluntarily unemployed.

The second area where program control should be tightened is in the department's determination and monitoring of a claimant's "availability for work." Making this determination and monitoring a claimant's intent is probably the toughest part of administering the UI laws. The surest test in this regard is the work test. This work test currently consist of claimants mailing in a card on a weekly basis which contains several employer's signatures certifying that the claimant has inquired about a job but no work was available. Such a system is heavily dependent on a claimant's honesty and leaves too much room for possible abuse. In testimony presented to your Committee, employers stated that they have come across claimants who have openly expressed that they are not really interested in a job but only require the employer's signature so they can continue to collect UI benefits. This is an area in which employers can assist the department in identifying these individuals who have no real intent of seeking employment. Employers should refuse to provide the necessary certification if they suspect that the individual is not honestly seeking employment. Furthermore, employers should report those individuals who claim or admit that they are not really seeking employment but only need a certification that they inquired about possible employment. This reporting can be easily accomplished by utilizing the "hotline service" recently instituted by the department for the reporting of claimant abuses by employers. Only through such cooperation from employers will the department be better able to determine a claimant's true intent as to his "availability for work."

The department should apply a more severe "work test" to insure that the individual is honestly and earnestly seeking employment. In addition, the department should advise the employers who are referred unemployed individuals to suitable employment position that if there are any indication that the referred unemployed individual is not honestly and earnestly seeking employment, the employers should report this to the department.

A third area where control should be tightened is in the departments determination and interpretation of the claimant's "suitable employment" qualification for UI benefits. "Suitable employment" is interpreted to mean "comparable employment" and these terms are used synonymously. Thus, a school teacher would be suitable only for a teaching position. Or a journeyman carpenter would be suitable only for a carpentry position.

An individual should be suitable for any related kind of occupation, i.e., a school teacher should be suitable for a research related position, or a day care center position

where the responsibilities call for overseeing, teaching, guidance, directing of children. A carpenter should be suitable for a building maintenance kind of position.

Your Committee feels that suitable employment should not be strictly interpreted to mean "comparable employment." We do not suggest that a white collar position be suitable to a blue collar position nor do we suggest that a professional must accept a sales or a clerical position.

**Pensioner claimants.** Another concern as expressed by employers is the payment of UI benefits to pensioners. Under the current law, pensioners may qualify for UI benefits and there is no reduction in their benefit amount for income received from social security and pensions. In testimony to your Committee, employers expressed the need to reexamine the payment of UI benefits to pensioner claimants due to their questionable availability status and their access to other income from social security benefits and pensions. Many employers believe that most pensioners have withdrawn from the labor force and have no real intention of seeking employment. In addition, they state that the payment of UI benefits without discounting a pensioner's income from social security and a pension may result in a pensioner enjoying a higher standard of living from that which he had prior to retirement.

In addressing this concern of employers regarding UI benefits for pensioners, your Committee believes that two issues must be resolved. The first is whether pensioners should be entitled to collect UI benefits due to their questionable availability status. Your Committee is of the opinion that pensioners who meet all of the eligibility requirements stipulated in the law are entitled to qualify for UI benefits. A blanket disqualification of pensioners from the UI program as proposed by some employers would be unfair. Such a blanket disqualification fails to recognize the distinction that must be made between a pensioner who is a "retiree" (one who has withdrawn from the labor force) and a pensioner who is receiving a pension but may still be available for work. The circumstances surrounding each pensioner claimant's case differ and determination of each claimant's eligibility should be made on an individual basis.

The second issue is whether pensioners should be paid the full amount of their weekly benefit entitlement since they already receive other income in the form of social security benefits and pensions. Under the current law, only those wages which have a bearing in determining whether a claimant is unemployed are considered as disqualifying or deductible income in computing the benefit amount. All other forms of income -- pensions, interest from savings, life insurance proceeds, gifts and inheritances, social security benefits -- are excluded. In addressing this issue of full entitlement, your Committee believes that one must first define the real intent of the UI program. The department defines the purpose of the UI program as an insurance program which insures workers against the risk of unemployment. The department further states that financial need is immaterial in determining the benefit amount since the program is not meant to be an income maintenance nor a welfare program. Your Committee begs to differ with this interpretation. The risk against which the UI program insures a worker is the economic injury resulting from a sudden loss of income. Through the receipt of UI benefits, an unemployed person is able to preserve his purchasing power at a level sufficient to meet his basic needs. Thus, providing financial assistance to an unemployed person is for all intent and purposes the basic intent of the UI program. If this is true, then the payment of full UI benefits to pensioner claimants who have other income in the form of social security benefits and pensions appears unreasonable on the basis of financial need.

Your Committee finds that the rapid depletion of our UI Trust Fund requires that we reexamine the current practice of paying full UI benefits to pensioner claimants. Your Committee does not question the right of pensioner claimants to collect UI benefits if they qualify. However, your Committee questions the amount of the UI benefits paid to such claimants. Your Committee finds that the general trend among other states is to limit the payment of duplicate benefits by reducing unemployment benefits by private pension amounts. As of September 1974, there were 34 states which reduced UI benefits of pensioners. In 21 of these states UI benefits were reduced for pensions received from base period employers. In the remaining 13 states pensions from any employer reduced UI benefits of pensioner claimants. The federal government established further precedent in the matter of simultaneous receipt of unemployment and retirement benefits in the pension amendment of the Temporary Extended Unemployment Compensation Act of 1961. The amendment provides for the reduction of the temporary extended compensation amount by the amount received from any public or private pension plan to which any base period employer had contributed except disability pensions, veterans' pensions, or social security benefits.

Thus, both the federal government and an increasing number of states are recognizing

the need to consider pension income in determining the amount of unemployment benefits paid to pensioner claimants.

Your Committee believes that the intent of the UI program is to provide temporary financial assistance to those who find themselves temporarily without any income due to the loss of their jobs. Thus, we believe that the prime consideration of the UI program should be financial need. In light of this intent, we cannot approve the present practice allowable by law of paying full UI benefits to qualified pensioner claimants with no consideration of the income received by many of these claimants from private and public pensions. The need for financial assistance of such claimants is generally not as severe as those who have no other source of income.

We, therefore, support a revision of the appropriate sections of the UI law to take into account pension income in determining the benefit amount for pensioner claimants.

Your Committee finds that at this time it would be premature for your Committee to explore the request made by several employers to amend the laws relating to "work stoppage". In testimony presented to your Committee, several employers requested a change in the unemployment insurance laws relating to the payment of benefits to striking employees. They contend that such payments create an imbalance in labor-management collective bargaining relations and do not preserve government neutrality in labor disputes. The current laws provide that if it is ruled by the department that there was no work stoppage, striking employees are eligible for unemployment benefits.

It is your Committee's opinion that no action on revising the unemployment laws relating to "work stoppage" should be taken at this time. Although the federal district court has rendered a decision in favor of the employer (Hawaiian Telephone v. State) and thus, in effect ruled such payments illegal, it would be premature of your Committee to recommend any action at this time.

#### RECOMMENDATIONS

Based on the findings and evaluations presented in this committee report, your Committee presents the following recommendations:

Your Committee recommends that the Department of Labor of Industrial Relations establish stronger and tighter administrative controls over abuses and fraud.

In cases of fraud, criminal prosecution should be pursued rather than disqualification. The successful prosecution of claimants found guilty of fraud combined with adequate publicity in the medias can be an effective deterrent in discouraging fraud.

In cases of claimant abuse, the department should apply the maximum penalty of 8 weeks for incidences of abuse, rather than a mere 2 to 5 weeks disqualification period. In addition, your committee should consider the department's proposal to enact legislation where individuals who voluntarily quit without good cause, individuals who are discharged or suspended because of work connected misconduct, individuals who refuse to accept suitable employment, retirees who voluntarily remove themselves from the labor force, would have to requalify for unemployment benefits by subsequent employment. This proposal is premised on the rationale that such individuals are voluntarily unemployed.

Monitor a claimants true intent as to his "availability for work." Apply a more severe "work test" to insure that the claimant is honestly and earnestly seeking employment. Request the assistance of all employers to utilize the "hotline" to report any incidences of suspected fraud or abuse.

Interpretation and determination of "suitable employment" should not be restricted to mean "comparable employment" only. An individual should be suitable for any related kind of occupation, i.e. a school teacher should be suitable for a research related position or a day care center position where the responsibilities call for overseeing, teaching, guiding, and directing of children. A journeyman carpenter should be suitable for a building maintenance kind of position.

Payment of benefits to claimants who are receiving pension income should be carefully reviewed and legislation enacted to recognize pension income as a deductible item in establishing a pensioner claimant's benefit entitlement.

We support the payment of UI benefits to pensioner claimants who qualify under the "availability for work" and "suitable employment" tests but we believe that such benefits should not be equal to those of other claimants who have little or no source of income.

We recommend that in cases where a claimant's monthly pension income exceed the maximum monthly UI benefit amount, no UI benefits be paid. If the pension amount is less than the UI amount, the claimant would receive the difference as UI benefits.

In the area relating to the revision of the UI laws pertaining to "work stoppages", it is your Committee's recommendation that no legislative action be taken at this time.

Your Committee further recommends that the following areas be explored during this session:

1. Explore the feasibility of a redefinition of "work week," i.e. rather than one hour per week, at least twenty (20) hours per week.
2. Review the feasibility of universal listing of jobs.
3. Review the eligibility requirements for benefits based upon period of active work force.
4. Requiring an annual independent audit of the UI fund.
5. Consider petitioning Congress to review and study the total UI program including: government financing, employer contributions, effect of increasing benefits and imposing such benefits to income taxes, etc.
6. Review and explore other alternatives in maintaining the solvency of the UI Trust Fund; including State and County reimbursement to the fund, contributions by self-insurers, more equitable employer rating schedule, trigger mechanism, public service employment program for UI beneficiaries.

Signed by Senators Toyofuku, Young, Chong, Taira, R. Wong, Yamasaki, Anderson, Henderson and Soares. Senator F. Wong did not sign the report.

Spec. Com. Rep. 9

Your Joint Interim Committees on Health and Government Operations and Efficiency authorized to tour and conduct a public information hearing on Waimano Training School and Hospital begs leave to report as follows:

Waimano Training School and Hospital, under the administration of the Department of Health provides care for the mentally retarded citizens of the State of Hawaii.

The purpose of this Committee's September 25, 1975, tour and hearing was to review the Waimano physical plant and the services that are available to residents of the facility.

The Committee received testimony from Dr. Garret Yanagi, Chief, Waimano Training School and Hospital, Delvin Freyer, parent of Waimano resident, Jean A. Culbertson, Hawaii Association for Retarded Children, and Janet Lang, Hawaii Association for Retarded Children.

As a result of the tour and public informational hearing, your Committee finds that the needs of Waimano Training School and Hospital are vast in all areas of staffing, programming and building standards. Because the planning of programming for the mentally retarded is being addressed by the Developmental Disabilities Council, Office of the Governor, your Committee will report only the basic maintenance and safety needs that should receive immediate attention. These identified needs and subsequent recommendations to the Department of Health are as follows:

1. Your Committee finds that Waimano is experiencing a high turn-over of personnel due to low salaries and excessive over time. In addition, employees are required to carry out basic patient maintenance tasks that could be handled by para-medics. This would free available skilled staff to fulfill their defined duties in the areas of rehabilitation and training. Currently they are not able to address these areas adequately.

Recommendations:

Provision of sufficient para-medical staff to carry out basic patient maintenance tasks.

2. Your Committee finds that due to a lack of staff, non-ambulatory patients are not receiving adequate physical therapy. As a result, some of these patients are suffering from irreversible flexion contractures (a freezing of the joints), a condition which can only be corrected with surgery.

Recommendations:

Provision of sufficient physical therapy staff to maintain non-ambulatory patients.

3. Your Committee learned that during the night shift, the Waimano skilled nursing facility has only one employee per ward (25 patients per ward; five wards). In case of a fire, these employees would probably not be able to evacuate the 125 non-ambulatory patients in the twostory facility.

Recommendations:

Provision of adequate staffing for the night shift Waimano skilled nursing facility.

Assurance that any future construction of skilled nursing care facilities for non-ambulatory patients will allow for a speedy emergency evacuation, utilizing a minimum number of personnel.

4. Your Committee learned that Waimano residents were relieved of their work activities upon the decision of the Supreme Court that patients must be paid for their work therapy. Waimano obtained the necessary license to continue work therapy, but residents have not been reinstated to their working positions. According to Dr. Yanagi, there is not adequate staff to address this task. As a result, many of these patients are not involved in this type of beneficial programmed activity. The question arises as to why adequate staff was available previous to the Supreme Court ruling but is not currently available.

Recommendations:

Provision of necessary staff to coordinate and reinstate work activities for residents.

5. Only a few buildings at Waimano are of a caliber to comfortably and safely house the residents. Basic facilities such as additional toilets are needed. The buildings do not meet certification standards for Medicaid, or standards for JCAH accreditation. As a result, Waimano cannot qualify for certain types of reimbursements for grants.

Recommendations:

Provision of basic equipment in the dorms and the skilled nursing facility until such time that standards can be thoroughly investigated by the Developmental Disabilities Council, Office of the Governor.

Your Joint Committee on Health and Government Operations and Efficiency request that the Department of Health address the above recommendations and provide a status report to the President of the Senate prior to the end of the 1976 Legislative Session.

Signed by Senators Chong, Takitani, Nishimura, Saiki, Kawasaki, Toyofuku, R. Wong and Leopold. Senators Ching, Anderson and Henderson did not sign the report.

Spec. Com. Rep. 10 (Majority)

Your Interim Committee on Ways and Means held hearings on the subject of taxation on August 21 and 22, 1975 and on October 22, 23 and 24, 1975.

The August hearings concentrated on administrative and compliance difficulties in the tax program, the tourism tax and the circuit-breaker. Because many of the comments received from the private sector dealt with purely administrative problems, copies of testimony presented by individuals and private organizations were forwarded to the Department of Taxation. We also encouraged the Department to establish a liaison with the private sector and we understand that someone has been appointed to establish this liaison.

The October hearings dealt with the real property program, particularly the assessment function.

While our hearings dealt with the specifics of our revenue system, your Committee was also concerned with the overall tax system and what major changes, if any, are required.

A recent tax incidence study done by Robert Ebel and Robert Kamins for the Governor's Commission on Operations, Revenues and Expenditures and published by the University

of Hawaii Social Sciences and Linguistics Institute shows that Hawaii's taxes have a generally regressive effect until incomes reach the \$17,000 to \$20,000 range where the burden becomes mildly progressive. The study recommends an overall proportional tax structure (after taking into account tax shifting and exporting) but cautions that the other criteria of a "good" tax system must not be forgotten as we discuss the tax question from the incidence viewpoint. These include revenue adequacy, horizontal equity, neutrality, tax exporting, conduciveness to economic growth, simplicity and ease of administration and taxpayer compliance.

Your Committee agrees that proportionality is a desirable goal but that proportionality in the tax system alone is not enough. We believe that the effect of government expenditures and a taxpayer's ability to pay are among the factors that must also be taken into consideration and therefore recommend the production of an expenditure incidence study for the State. We are exploring with the Legislative Auditor the feasibility of performing such a study. We also recommend that an update of the Ebel-Kamins tax incidence study be made concurrently to include a discussion of the effect of inflation on the tax system.

This should not be taken to mean that we recommend no action on tax reform. The evidence is already in that our tax system is regressive with no balancing evidence for Hawaii that expenditures have a "pro-poor" bias. We believe that we should continue to develop an equitable and just tax system by strengthening the progressive taxes and minimizing the effects of the regressive ones.

#### I. SUMMARY OF THE FINANCIAL AUDIT OF THE DEPARTMENT OF TAXATION

The Legislative Auditor found three areas within the Department of Taxation's operations that were deficient: internal and operational controls, administration of the income tax program and administration of the real property tax program. The Overview of the Audit states that the deficiencies in the real property program are the gravest and require earliest attention. Accordingly, your Committee held hearings on the topic. Our findings and recommendations in that area are reported in a proceeding section of this report. The auditor's findings and recommendations on internal control and the income tax program are summarized below.

##### Internal and Operational Controls

1. Insufficient controls over mailed-in receipts. The present system provides no accounting of items received in the mailroom and errors or theft could occur in the process of being sorted and routed. A batch control process with appropriate checks for discrepancies is recommended.
2. Delays in depositing receipts. Delays in depositing receipts occur for three reasons: 1) insufficient system to handle mail during peak periods that occur around the deadlines for various taxes, 2) routing mail, including tax payments, to specific offices rather than cashiering, and 3) holding receipts overnight before depositing.
3. Inefficient method of validating returns. Rather than using cash register validation which cannot take bulky returns, the Audit recommends validation with a handstamp.
4. Poor security over cash receipts. During the day, receipts are kept in an unlocked vault and the cashiering area is not secured. The audit recommends that the vault be locked at all times and access be limited to specific individuals and that the door to the cashiering area be locked.
5. Slowness in processing and pursuing delinquent taxes. Delays occur in the transmittal of delinquent accounts from the general excise branch to the delinquency enforcement branch and in sending out the second dunning notice to these accounts.
6. Recordkeeping backlog for general excise and withholding taxes. The posting of taxes due and amounts paid are severely backlogged and the Department is unable to provide current information to taxpayers and the identification of delinquent accounts is hampered. The Audit recommends early implementation of electronic data processing support for file maintenance. The Department has notified us that computerization is scheduled for 1976.
7. Poor maintenance of financial records. The Audit disclosed that the Kauai general ledger did not balance with the individual ledger accounts for each taxpayer, that taxes paid under protest had not been posted for two years, and several other items (change fund, imprest funds and deposits in transit at the end of the month) were not posted to the general ledger.

8. Inadequate security over tax documents and files. Some documents, in particular real property field history books and recent income tax returns, were in danger of potential fire loss.

#### Income Tax Administration

Several areas were highlighted for improvement in the income tax program.

1. Inefficient tax refund process. The Audit recommends that the Department abandon its practice of not issuing refunds until a return claiming overpayment has been examined. The report states, "Taxpayers who file returns showing tax liability are equally apt to make errors in their returns as those taxpayers who file returns showing refunds due".

2. Inefficient tax return examinations. The Audit recommends the Department computerize the examination of returns.

3. Nonenforcement of penalties on underpayment of estimated income taxes. The Audit found that the Department was not assessing penalties on individuals and businesses that underestimate their taxes by more than thirty per cent.

4. Costly scheduling of payment of withheld taxes. Section 235-62, HRS, provides that withholding taxes on wages paid in any given month are to be paid to the State by the last day of the following month. This allows the employer to use the taxes for at least a month after they have been withheld and denies the State the use of these funds. The Audit recommends that the statute be changed to provide for earlier remittance to the State on a schedule determined by the amount of taxes due: the larger the amount, the more frequent the payment. The Department has informed us that they are undertaking a study to determine how withheld taxes may be made available to the State as soon as possible.

#### II. GENERAL EXCISE TAX PROGRAM

Your Committee heard from both taxpayers and the Department of Taxation on the general excise tax program. The following comments relate to administrative concerns rather than matters requiring legislative action.

1. Possible non-compliance with the Administrative Procedure Act by the Department of Taxation. George Ruff representing the Hawaiian Sugar Planters Association felt that rules and regulations and Department procedures have been adopted without public hearings. The Tax Foundation of Hawaii also claimed that it has not been receiving all notices of public hearings that have been held and that rules are established, modified, changed and interpreted in the Information Releases without benefit of public hearings.

2. Inadequate rules and regulations. Disagreements on the interpretation of tax law and compliance difficulties have occurred because of the lack of adequate rules and regulations according to Fred Bennion of the Tax Foundation, C. Russell Coffman of the Hawaii Society of Certified Public Accountants and George Ruff of the HSPA.

3. Information Releases. The HSPA suggested that the Information Releases be compiled, indexed and published for the public to purchase at a reasonable price. It was suggested that the court decisions on tax cases be included in the Information Releases.

4. Field auditing deficiencies. The Tax Foundation reiterated a 1968 Authur D. Little study which recommended that the Field Audit staff be tripled to enable the Department to audit more returns. The Department presently audits 1.5% of returns filed each year.

Not all recommendations were administrative concerns. Several recommendations presented would require statutory changes. These are discussed below. Note that recommendations 1 and 2 apply to all taxes and recommendations 3 and 4 apply to the general excise tax specifically.

1. The Chamber of Commerce of Hawaii suggested that interest payable on penalties for nonpayment or underpayment of taxes accrue from ten days after notice and demand for payment rather than from the due date of the return. Your Committee finds that the accrual of interest on penalties from the due date of the return does not constitute an additional penalty as the Chamber of Commerce claimed. It is merely a partial

compensation to the State from the delinquent taxpayer of the opportunity costs the State incurs because taxes due have not been paid. We therefore recommend no change in the statute.

2. Section 231-27, HRS, provides that the partial payment on outstanding taxes be applied to interest, then to penalties, then to principal. The Chamber of Commerce recommends that partial payments be applied to principal, then to penalties and then to interest, or with the concurrence of the Director of Taxation, the taxpayer may apply partial payment in another manner. We agree that the present method of crediting partial payments has the appearance of being unduly harsh on the taxpayer but we do not feel that the issue has been studied enough to make a recommendation at this time. Your Committee therefore directs the Director of Taxation to study this suggestion, keeping in mind that penalties and interest on delinquent taxes should be an incentive to pay taxes when due and administrative feasibility of the suggestion if electronic data processing support were available.

3. Regarding refunds, the Chamber recommends that taxpayers not be required to pay general excise and use taxes under protest and file monthly return to the board of review while the issue is before the board of review in the tax appeals court and that refunds be allowed on timely claims filed in instances where a protest was not filed at the time the taxes were paid. Your Committee requests the Department of Taxation to review these recommendations for possible legislative action. The Chamber also recommends that refunds be allowed on the overpayment of taxes, penalty and/or interest to taxpayers who file timely claims if the Department applied the law incorrectly although uniformly. Your Committee agrees that the statute should be amended to allow refunds in instances where the law has been applied incorrectly and will hold hearings during the 1976 session to discuss this matter further.

The Department of Taxation also presented testimony regarding the general excise tax program. One of their concerns was with delinquent accounts and the collection difficulties that accompany them. It was suggested that a way to limit these delinquencies could be to require a surety bond on all firms or individuals doing business in Hawaii. This might help collect delinquent taxes from firms who operate from outside the State or who go bankrupt or otherwise become defunct. The Department added however that because of limited staff and physical facilities, this proposal would not meet the test of administrative feasibility at this time. Implementation of a computerized system for identifying delinquent accounts is expected to permit better recovery of delinquent amounts. We share the Department's concern but are wary of the suggestion because a bonding requirement might be a bar to entry into business. We hope early identification of delinquencies through computerization will take care of this problem.

### III. INCOME TAX PROGRAM

Your Committee's call to the community for comments on the income tax program drew responses from Alan Kidwell of the Chamber of Commerce and C. Russell Coffman of the Hawaii Society of Certified Public Accountants. Only one of the issues presented require legislative action. That discussion follows.

1. Conformity with the Internal Revenue Code. Both Mr. Kidwell and Mr. Coffman suggested that more conformity with the Internal Revenue Code would ease compliance and administration. Mr. Coffman suggested that this Committee might want to investigate the feasibility of automatic adoption of federal income tax law subject to veto by the Legislature. The Department of Taxation had objections to both complete conformity and automatic adoption because "...the federal tax laws involve certain economic, fiscal and social policies that may not at all times be compatible with those of Hawaii. Automatic adoption of new federal provisions would also be contrary to the Constitution of the State of Hawaii which provides that the power of taxation shall never be surrendered, suspended or contracted away." We also believe that automatic adoption is not desirable for the State but that changes in the Internal Revenue Code should be closely monitored for adoption in Hawaii if the changes are in accord with the policies and administrative and revenue requirements of the State.

Other issues discussed were matters of administrative concern. We have forwarded witnesses' comments presented below to the Department of Taxation.

1. Regulations. As in the general excise tax program, witnesses urged the adoption of more rules and regulations to aid compliance.

2. Extensions. Both the Chamber of Commerce and the Hawaii Society of Certified Public Accountants urged adoption of the federal automatic extensions (two months for individuals and three months for corporations) and automatic granting of State



extensions when federal extensions are granted.

3. Credit of taxes paid to other states. The Hawaii Society of Certified Public Accountants suggested that retained copies of returns along with cancelled checks or withholding statements be adequate proof of taxes paid to other states when claiming credit for those taxes paid.

4. Elections and changes in accounting periods and/or methods. The Chamber of Commerce suggested that automatic changes be permitted when the Internal Revenue Service grants approval of changes in accounting periods and/or methods or for other advance elections or rulings.

5. Forms. For both individual and corporate accounts, the Chamber of Commerce suggested that the State N-12 form be revised to more closely resemble the Federal 1040 form with the areas of difference appropriately highlighted and that corporations be allowed to attach a copy of the Federal return for gross income and deduction figures.

Your Committee requests the Department of Taxation to review the above for implementation or possible legislative action.

#### IV. REAL PROPERTY TAX PROGRAM

Your Committee studied several issues relating to our major concern in the real property tax program, property assessment. The issues we examined included transfer of the assessment function to the counties, revenue and/or rate limitation provisions and property tax relief programs such as home exemptions and the circuit-breaker, either as alternatives or complements to each other.

##### Financial Audit of the Department of Taxation

The Legislative Auditor found a number of deficiencies in the real property division. Three basic findings were presented.

1. Inequities in real property assessment. Deficient assessment policies have resulted in assessment sales ratios that vary between areas and within areas.

2. Unsystematic selection of parcels for reappraisal. The Department selects only a limited number of parcels because appraisal of each parcel requires more time and work than is possible with the staff available. Parcels are also being assessed more or less often than every four years depending on the sales activity of an area (high sales areas being assessed more frequently) rather than on a cyclical basis. Auditor's recommendation for ending this is computerized assessment of all parcels yearly.

3. Assessment techniques and methods that result in inequitable assessment and the Auditor's suggestions for correcting the various deficiencies are noted from the Auditor's Overview of the Audit:

a. "The Department's practice of depreciating residential buildings without giving consideration to their condition and upkeep tends to undervalue relatively old but well-maintained residential buildings."

b. "Unimproved land is generally assessed lower than improved land, much lower than appears justified."

c. "Policies to establish benchmark values are vague and are not specific enough to assure uniform and consistent values."

d. "The construction cost index used to determine the replacement cost of all buildings, i.e., single family residence, commercial, industrial, etc., is inappropriate and results in unfairness in the valuation of different types of buildings."

e. "Parcels of land are being valued as agricultural lands although they are not being used in agricultural production, primarily because the Department has failed to formulate written policies which define 'agricultural production' and the minimum acreage that must be devoted to agricultural land."

##### Transfer of Assessment of the Counties

The goal of achieving "uniform and equalized assessments throughout the State" (Section 246-10, HRS) can be best achieved by continuation of our centralized assessment

system. This sentiment was expressed by the proponents of maintaining State assessment including the Chamber of Commerce of Hawaii, the Tax Foundation of Hawaii and several other witnesses from the general public. Your Committee concurs.

We found that the criticism of the State's real property assessment program is generally justified but that because the criticism is not of the division of responsibility between State and local government, mere transfer of the assessment function would not solve the program's problems. Serious administrative problems may be grounds for decentralization if there is reason to believe that the State administration has no intention or is incapable of correcting the situation but there is no evidence of this. The Department has made a review of the Audit to determine what recommendations should be implemented to improve the administration of the system. Many of the shortcomings have been recognized by the Department, the Director has appointed an individual to be responsible for the program and plans for computerization of the real property, income and general excise programs are being realized.

Furthermore, your Committee believes that the new technology of assessment dictates centralization for computerization of assessment will be more efficient at a State-wide level rather than the county level because of the economies that may be realized at the broader level. We recommend that the Department move ahead with plans to study and implement, if feasible, a system of computerized assessment. In the meantime, we recommend that the Assessment Division be provided with the necessary funding and additional personnel to assess property according to law. Specific budget recommendations will be presented during the 1976 session.

Finally, your Committee believes that the philosophy of a centralized system remains sound and offers many advantages over a decentralized system.

In 1974, the Advisory Commission on Intergovernmental Relations published The Property Tax in a Changing Environment: Selected State Studies. The study evaluates Hawaii's property tax system, summarizing:

"During the past decade, Hawaii's long-standing but unique arrangement, but which all property tax assessments are set by a state agency, though providing a base only for locally imposed levies, continued to operate effectively and without drastic change."

Regarding assessment specifically the ACIR report, like the Auditor's report recognizes that the average coefficients of dispersion, intra-area coefficients and inter-area coefficients of dispersion are too high but reaffirms its belief in centralization.

ACIR first examined Hawaii's centralized system in 1963 in the The Role of the State in Strengthening the Property Tax. The "Centralization vs. Decentralization" section is quoted in part below:

"Since central administration of the property tax is traditional procedure in Hawaii, the State's citizens probably are not so fully aware of its advantages, actual and potential, as they would be if the system were a new product of progressive civic effort. These advantages become obvious, however, when comparison is made with the various arrangements in the other States.

Under Hawaii's system of State assessment, a reasonable degree of statewide equity among classes and within classes of property is being worked for through a professional assessing staff following uniform methods and procedures under central supervision, reinforced by the valuation research work of a central technical staff. These professional and technical resources are just as available to rural areas as to urban areas. Decentralization of assessment would require an expensive duplication of some of these facilities, or their downgrading in rural counties that might find it difficult to meet the expense. This system also can obtain inter-county equalization without the creation of a special State organization for this purpose. Not to be overlooked are the economies and efficiencies resulting from the availability of the resources of a large central tax department, among them electronic data processing facilities for preparation of assessment rolls, tax bills, etc., record keeping, accounting and statistical research.

As a support for a well-integrated State-local revenue system, as an aid to unified State economic development, and as a useful factor in maintaining an uncomplicated government structure, the importance of a sound system of central assessment can hardly be overemphasized. It removes local fiscal capacity from obscurity, avoids the economic and fiscal weaknesses of competitive underassessment, and obviates the need for the complex and costly regulatory organization and machinery to which

other States are turning in order to salvage the property tax.

...The assessment of property and collection of taxes are properly matters of fiscal administration, and so long as the State provides these administrative services efficiently and in accordance with statutory requirements, it does not interfere with county determination of fiscal policy within the range permitted by law.

...It would appear, in fact, that the 50th State already has, or is close to having, what the others might like to have if they knew how to get it."

Pending receipt of any further information to the contrary, we believe the arguments in favor of State assessment are most compelling.

#### Public Accountability for Real Property Tax Rates

Your Committee did find a weakness in the property tax system outside of the previously mentioned administrative ones, the lack of fiscal and political accountability. We see two ways to handle this problem -- transfer of the assessment function, or enactment of some kind of county revenue or tax rate accountability statute. Because of the basic strength of our centralized system as we discussed above, we feel that the enactment of such a statute would best achieve the goals of fiscal and political accountability.

A situation now exists where the political subdivisions of the State are able to raise the effective tax rate to taxpayers without the public being made consciously aware of the increase or what level of government is responsible for the increase. This situation thrives in the confusion resulting from the division of responsibility between assessment and rate setting.

We believe that the responsibility should be fixed on the county who ultimately determines what property owners will pay to meet the needs of that county's budget. Under the present situation the public may not be aware of the impact on county revenue (and thus, expenditures) of stable tax rates when assessments increase. As one method of fixing responsibility, the State should consider enactment of legislation which would pinpoint it at the county level.

Seventeen states have some kind of revenue or tax rate limitation statute including Alaska, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Louisiana, Maryland, Montana, Minnesota, New Mexico, North Carolina, Oklahoma, Pennsylvania, Washington and Wisconsin. These States either place a limit on the tax rate or limit the amount a county can raise through the property tax according to some percentage or the previous year's revenue. Your Committee feels these types of measures are an unnecessary restriction on the counties and that, at least for now, each county is in a better position to determine its revenue needs than the State. However, the question of accountability to the citizenry is still a legitimate concern and your Committee believes that accountability and county flexibility may be best achieved by the adoption of a law to require more public input before raising effective property tax rates. The state of Florida adopted such a statute in 1975. The procedure for setting tax rates in Florida is outlined below:

- I. The State determines the taxable value of land, and
- II. sets a millage to raise the same revenue as in the previous year from 95% of the assessed value.
- III. A local governing board may exceed that millage (as set above only by:
  - A. Advertising in a newspaper,
  - B. holding a public hearing,
  - C. readvertising, then
  - D. meeting for a vote and adopting millage by majority vote of the board. This procedure must be completed within two weeks.

#### Real Property Tax Relief

Many of the witnesses from the general public stated that they felt property taxes were becoming excessive. Your Committee is very concerned about this and especially about the effect of rising property taxes for taxpayers on fixed incomes and for those whose salaries and wages have not kept up with the rise in cost of living. Another concern of the public was that the dramatic increases that occur after several stable assessment years pose a hardship on taxpayer's budgets. With these concerns in

mind, taxpayers including a limit on the amount of increase that may occur in a year and property tax relief measures including home exemptions and the circuit-breaker .

The State of Hawaii presently allows a maximum \$8000 home exemption which has not been increased since 1969. Since 1969 the price of homes has increased but relief has not. To maintain the integrity of the home exemption program, we recommend increasing the exemption. Specific legislation to accomplish this purpose have been referred to us. We intend to hold hearings on them during the 1976 session.

As another approach to property tax relief, your Committee studied the circuit-breaker, a relief program that protects against tax overload in much the same way an electrical circuit-breaker protects against current overload. In brief, the system would work as follows: the State would set a maximum percentage of personal income a family should pay in taxes by income levels. Over that amount, the State would forgive all or part of the "excess tax". The key advantage over home exemptions is that relief can be targeted to those who need the relief and makes maximum use of the available relief dollars although home exemptions and the circuit-breaker can and do coexist in other states.

Your Committee is also concerned that renters who, assuming that landlords pass on higher property taxes to their tenants, have also been affected by rising property taxes but do not benefit from any relief programs. This is of special concern in Hawaii with our high percentage of renters in the population. Because of this, we urge the Legislature to study tax relief measures for renters either in the form of a low- and middle-income renter tax credit or, if the State adopts a circuit-breaker, inclusion of these renters in the target population.

Beyond concern for the real property tax burden, the Committee is also concerned with over-all tax burden especially in view of the State's reliance on regressive taxes to produce revenue. We believe that a comprehensive tax credit based on the circuit-breaker concept might provide the most meaningful relief because the effect of all taxes are taken into consideration. We therefore recommend further study on the possibility of implementing a comprehensive tax credit for the State.

#### V. FEDERAL DEVELOPMENT WITH REVENUE IMPLICATIONS FOR THE STATE

##### Revenue Sharing

There are a number of bills pending before Congress that would affect the general revenue sharing program in diverse ways. Measures that have been introduced include continuation of revenue sharing without major amendments, counter-cyclical grants for state and local governments, increased funding for the program, adoption of an automatic inflation adjustment, change in the state-county distribution formula, elimination of the State's role, requiring public hearings before the planned Use Report is submitted and suspension of revenue sharing in any year that the Federal budget is in a deficit.

There have been numerous evaluations made of the program including those of the ACIR, National Science Foundation, U.S. Civil Rights Commission, National Clearinghouse on Revenue Sharing (an organization which includes the League of Women Voters, National Urban Coalition, Center for Community Change and the Center for National Policy Review), the Americans for Democratic Action and the Brookings Institute. The criticism of the program has been varied and touches almost all features of the system. Some of the concerns are reflected in the topics of the bills mentioned previously. Another major concern expressed by many of the evaluators is that the prohibition against use of the funds in programs practicing employment discrimination is not being enforced by the Office of Revenue Sharing.

An alternative to federal revenue sharing that has been proposed would be for the federal government to lower its taxes and allow the state and local governments to raise their taxes to achieve decentralization. While this view may have merit it should be remembered that the federal government is a more efficient revenue producer than the states and that distribution goals of revenue sharing could not be achieved.

In spite of these shortcomings, your Committee believes that the program is basically a good one. The decentralization and emphasis on local priorities are important in strengthening the States' and counties' roles in the national fiscal system and general revenue sharing is a means of reaching that objective. However there is one change that might be made to give more flexibility to the program and to take into account the differences between all states and their relationships with the sub-state governments. Senator Thomas Eagleton has introduced a bill to have the county-state distribution

based on the direct general revenues a government unit collects as a percentage of total direct general revenues collected in the State. We believe that a bill such as this would do much to assure that the revenue sharing funds would be channeled to the most active level of government in a State.

#### Military Taxation

Another issue at the federal level with major fiscal implications for Hawaii is the issue of military taxation. The ACIR found that the States and local governments were subsidizing military benefits because the imposition of sales and excise taxes at commissaries and PX<sup>1</sup> is prohibited by the federal government and that federal laws were responsible for discriminatory treatment of civilians and military personnel regarding State income taxes. This is of particular concern to Hawaii not only because of the discriminatory treatment of civilians and military personnel regarding State income taxes but also because of the estimated \$35 million annual tax loss to Hawaii. This matter has received considerable local attention as the result of columns in the press. We believe there should be more study on both the state and federal levels which will lead to an equitable situation.

Signed by Senators R. Wong, Yamasaki, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yim, Young, Anderson, Henderson and Soares.  
Senators Hulten, King, Anderson and Soares did not concur.

#### Spec. Com. Rep. 11

Your Interim Committee on Ecology, Environment and Recreation which was requested to review Act 246, 1974 Session Laws of Hawaii, entitled Environmental Quality Commission and Environmental Impact Statements (Chapter 343, HRS) pursuant to Senate Resolution No. 58, SD 1, entitled, "SENATE RESOLUTION REQUESTING A REVIEW OF ACT 246.", begs leave to report as follows:

Your Committee was requested by this Resolution to review Act 246, relating to the Environmental Quality Commission and Environmental Impact Statements, to ascertain whether it is the most effective method of achieving the goal of environmental protection and to report its findings and recommendations to the Governor and the Legislature.

A public hearing to implement this Resolution was held on October 21, 1975 and testimony was received from the Board of Agriculture, the Environmental Quality Commission, the Office of Environmental Quality Control, and the Environmental Center, University of Hawaii.

Although a number of weaknesses in the Act in terms of the goal of environmental protection were pointed out, the Director of the Office of Environmental Quality Control testified that his office had found the evaluative process offered by environmental impact statements vital in areas of planning and decision making, resulting in more thoughtful deliberation in choosing feasible alternatives, the assurance of public participation, and more reasonable final decisions. However, although the Act was effective in 1974, the rules and regulations to implement the Act were not effective until June 1975. Your Committee therefore felt that at the time of the October hearing the rules and regulations had not been in effect long enough to ascertain the full impact or effect of Act 246.

It is your Committee's understanding that a number of bills will be introduced this session to strengthen weaknesses in the Act and will be looking at these along with the recommendations made at the interim hearing to determine necessary changes to Act 246 to further protect Hawaii's environment.

Your Interim Committee on Ecology, Environment and Recreation recommends that Act 246 (1974 S.L.H.) be reviewed by the Committee on Ecology, Environment and Recreation in the 1976 Session when the Act along with its rules and regulations will have had sufficient time to be adequately tested in practice.

Signed by Senators King, Hulten, Ching, Chong, Hara, Nishimura, George and Soares.

#### Spec. Com. Rep. 12

Your Interim Committee on Human Resources to which was assigned the task of reviewing the feasibility of broadening the scope of collective bargaining negotiations, begs leave to report as follows:

## INTRODUCTION

During the past five years in which public collective bargaining has been in existence, both unions and management have struggled to overcome and iron-out many difficulties encountered in these initial years of implementing collective bargaining. While management initially utilized outside professional assistance to overcome its relative inexperience in collective negotiations, it now has its own negotiating team and is developing its expertise in this area. Unions, too, have manifested strong development and growth in their negotiating practices and capabilities. Thus, we see definite signs of a maturing public collective bargaining process in Hawaii.

Although collective bargaining is still rather young in Hawaii, we feel a review of the scope of negotiations of the collective bargaining process is in order. Presently, the scope of negotiations is limited to wages, hours, and other terms and conditions of employment. Thus, during the course of our deliberations, we have endeavored to assess the feasibility of broadening the scope of items subject to negotiations, including additional employment benefits and conditions.

The Committee's deliberations on the feasibility of broadening the scope of negotiations centers on Section 89-9, HRS.

## MANAGEMENT RIGHTS

Information presented before this Committee by both management and unions basically addressed Section 89-9(d), HRS, which is the "management rights clause." This clause is customarily regarded in Hawaii public sector labor relations as a single entity defining the interrelated rights reserved to management. Unions find this section a major stumbling block towards true collective bargaining negotiations. Management views this section as a reservation of management rights required to balance the rights, privileges, and powers accorded public employees by Chapter 89 and to define the parameters of negotiations in the public sector.

Union testimony basically called for the elimination of Section 89-9(d) from the statutes and preferred the following capsulized reasons for this action:

(1) There is a continuing conflict between Section 89-9(a) and Section 89-9(d). Unions argue that subjects such as "class size" and "working laws" are conditions of work and negotiable under Section 89-9(a) while the employer argues that these subjects are "non-negotiable" under the management rights section of 89-9(d). When management claims that an item is "non-negotiable", the union, if it believes strongly in the negotiability of the item must go to the Hawaii Public Employee Relations Board, which, by statute, decides on prohibited practices. This is a time-consuming and expensive process to both management and union.

(2) In the private sector, there are no statutory provisions for managements rights. Management rights clauses are usually negotiated in the contracts. Unions do not want to be "managers" and do away with basic management rights such as to hire, to fire, or to promote. Private sector experience has shown that negotiated management rights clauses in contracts work effectively. The statutory basis of management rights in the public sector has interfered in the good faith negotiating process between management and union.

(3) Section 89-9(d) also conflicts with Section 89-1, the Statement of findings and policy which found that:

"...joint decision making is the modern way of administering government. Where public employees have been granted the right to share in the decision making process affecting wages and working conditions, they have become more responsive and better able to exchange ideas and information on operations with their administrators. Accordingly, government is made more effective."

By claiming that a union proposal is non-negotiable, management undermines the letter and spirit of the legislative intent for "...joint decision making in administering government." Management has time on their side. Any prohibited practice charge pending before HPERB automatically precludes impasse procedures which frustrates unions and violates the intent and spirit of the collective bargaining law.

Management, on the other hand, argues against elimination of the management rights clause with the following reasons:

(1) Section 89-9(d) defines the parameters of negotiating in the public sector and

balances the rights, privileges and powers accorded public employees by Chapter 89.

(2) Without the management's rights clause, public employees could utilize the collective bargaining process to effect social change and determine the cause of public policy which is basically the legislature's prerogative.

(3) Managements rights are acquired by public employers from statutes, rules, and regulations in the name of all people. These rights and responsibilities cannot be delegated or bargained, because public employers do not have the power to bargain the form, quality and quantity of government service -- only wages, hours, and working conditions.

(4) Since management is responsible and held accountable for efficiency and productivity, they must have the maximum amount of authority and flexibility possible to operate their programs.

(5) It would be premature at this juncture to delete the management rights clause because Hawaii's experience with case law in these matters to date is very limited and presently all "scope of negotiation" problems are being effectively resolved by HPERB. To delete the clause now would leave HPERB without the guidance of lawmakers and policymakers.

In the Committee's deliberations of the various pros and cons regarding the statutory base of a managements rights clause, two vital points became very apparent and were given the highest consideration. One point is that there is a basic difference between public and private sector collective bargaining. The public employer is established for the benefit of all the people and by all the people and as such has no option to "go out of business" or to abdicate, or bargain away rights conferred by elected officials, especially on matters of public policy. The public employer has to be responsible and accountable to all the people. The private sector employer has no such constraints.

The second vital point is that public sector collective bargaining is still relatively new in Hawaii, as well as the nation, and there is a relative dearth of case law experience to use as a guide on issues of negotiability.

The Committee notes, however, that management has the duty to meet and confer with unions and should not unilaterally make predetermined decisions that has detrimental effects upon employees. The concept of harmony and joint solution of problems should be paramount. Management should not utilize the "management rights clause" to undermine this philosophy.

Your Committee recommends retaining the statutory base for management rights as prescribed in Section 89-9(d), HRS.

#### CLASSIFICATION AND RECLASSIFICATION

Your Committee also addressed the question of negotiating classification and reclassification actions. Exclusion of these items precludes employees from having any input in the classification and make-up of their own jobs. Employees, however, do have an administrative mechanism, called repricing action, available to them. The problem that arises is that such action in the past has been fruitless and some unions feel that the whole process should be eliminated. Other unions feel that the unilateral make-up of the repricing board by management should allow union representation and voting power to make the process more meaningful.

On the other hand, negotiating these items could result in lack of systemization, greater time logs, increased costs, and increased possibility of impasse. The systematic development of a classification plan is dependent upon understanding the inter-relationships between positive classification, qualification standards, pay structures, prevailing rates and pricing techniques. Much training is required for competence in this area.

The Committee was made aware of specific instances wherein new program developments, conceded to be worthwhile by management and unions, were hampered due to considerations of reclassification. While the Committee found no overriding concerns to change the status quo of excluding classification and reclassification from negotiations, there is a concern to have management more responsive on its own to conditions that would make programs more efficient and productive.

The Committee recommends keeping classification and reclassification out of the negotiating process. The Committee, however, also recommends that unions should

have a vote in the administrative repricing process to allow a more meaningful input by employees on repricing matters.

#### RETIREMENT SYSTEM AND PUBLIC EMPLOYEE'S HEALTH FUND BENEFITS

The Hawaii Public Employees Retirement System provides overall benefits which are considered the finest in the nation. The system provides a retirement benefit formula of 2% of average final compensation for each year of service with a normal age of retirement of age 55; unused sick leave as additional retirement service credit; post retirement increases of 2-1/2% each year; free medical and life insurance after retirement; plus social security benefits.

The attendant costs have been escalating both to the employee and employer. The employee contribution has increased by 2.35% of gross earnings since 1969-70. The employer itself is committed to a 2-1/2 fold increase from 1969-70 to 1976-77.

During the course of your Committee's deliberations, two important factors were considered. One consideration is the contractual relationship of accrued benefits "which shall not be diminished or impaired" that was provided by the State Constitution. Thus, any benefits given and accrued cannot be taken back. With the spiraling costs of the retirement system, which must be provided by general fund appropriations, caution must be applied to any changes in the complex Retirement System which would make the system uncontrollable.

The second consideration is the fragmentation and "leap-frogging" effects of retirement system benefits by the different collective bargaining units, unless a common agreement on particular improvements by the units can be obtained. This common agreement has not been workable thus far as witnessed by past attempts at such agreement concerning health fund benefits.

The Public Employees Health Fund benefits are in a similar situation. The fragmentation aspect for the health fund, however, has a greater impact. The lack of size and purchasing power would put employees of smaller units at a disadvantage. Your Committee, however, is concerned over the disproportionate share of the cost borne by employees under the present system.

Based on the above, your Committee feels there would be detrimental effects by allowing Retirement System and Health Fund benefits to be negotiable. Your Committee recommends that both Retirement System and Health Fund benefits remain excluded from collective bargaining negotiations. The Committee further recommends that during the 1976 legislative session, the Committee review the proportionate employee and employer share of health benefit costs with the purpose of making it more equitable.

#### TECHNICAL CONSIDERATIONS

The Committee expanded its deliberations to review various technical changes to the collective bargaining law. One deficiency of note is the "substitute" rule of Section 89-5(a) wherein the Governor may temporarily appoint a member of HPERB should one of the members be either (1) out-of-state, or (2) ill. Your Committee recommends that a temporary appointment also be made in the event one of the members is disqualified to act in a particular instance. The temporary appointment should follow the present philosophy of maintaining a balance of one management member, one labor member, and one independent or public member to adjudicate an action.

Another technical discrepancy is the mandating of service fees per Section 89-4(a). The Attorney General has ruled that all employees must pay service fees regardless of the fact that members of unions are already paying union dues. Since the concept of service fees centers around the remuneration of unions for services rendered in collective bargaining negotiations and contract administration, there should be no dual charge for union members in as much as union dues serve this purpose. Your Committee recommends corrective action in the 1976 legislative session. Your Committee further recommends legislation setting the service fees equal to union dues charged by the exclusive representative for each unit.

Your Committee also deliberated on the progress of management and union attempts to provide a more meaningful make-up of employees that should be included and excluded from the collective bargaining process. Your Committee reflects the concern of HPERB that the number of excluded personnel covers many employees that rightfully should be a part of the collective bargaining process. The Committee, however, understands that management and unions are working diligently and successfully to pare down the excluded list to reflect the proper top management and confidential employees



which are to be excluded, and no more. Thus, your Committee has no recommendations at this time regarding this matter.

Signed by Senators Toyofuku, Young, Chong, Taira, F. Wong, R. Wong, Yamasaki, Henderson and Soares. Senator Anderson did not sign the report.

Spec. Com. Rep. 13

Your Interim Committee on Health to which was referred S.R. No. 24, entitled: "REQUESTING THE COMMITTEE ON HEALTH TO REVIEW THE PROGRAM ON ALCOHOLISM AND TO DETERMINE HOW MORE EFFECTIVE COORDINATION AND PROGRAM IMPLEMENTATION CAN BE ACHIEVED," begs leave to report as follows:

Senate Resolution No. 24 requested your Committee on Health to review the State's program on alcoholism and to determine how more effective coordination and program implementation can be achieved. Your Committee was charged with assuring that State policies are adequate for:

1. Receiving matching funds for federal grants;
2. Inclusion of alcoholism under Medicaid; and
3. Licensing of alcoholism treatment facilities.

In the absence of adequate policies, your Committee was requested to formulate a directive policy for executive agencies and to submit any necessary legislation. The issues are as follows:

1. Your Committee finds that there are not adequate policies in force which result in necessary matching funds for alcoholism programs. In the regular session of 1975, \$161,299 per year for each of the two years of the biennium was appropriated for alcoholism treatment, providing limited support for six alcoholism programs in Hawaii. While a portion of these funds were used by the designated programs as matching funds for federal dollars, no policy exists that assures programs receiving federal grants that matching State funds will be provided.

Recommendation: Your Committee recommends that the Director, Department of Health, provide detailed information concerning the total amount of state funds required to match federal grants for alcoholism programs in Hawaii and make timely requests to the Legislature for appropriations deemed necessary to meet matching fund requirements. In addition, your Committee recommends that the Director, Department of Health, establish procedures for prompt payment of said matching funds directly to the agencies with federal grants or, on behalf of said agencies, directly to the federal funding source.

2. Your Committee finds that, at the present time, Medicaid does not cover alcoholism treatment except in connection with other disorders or diseases requiring hospitalization in a licensed general or acute care hospital. Your Committee learned that the Department of Social Services and Housing, and the Department of Health are currently working out the mechanics for Medicaid reimbursement of detoxification services being provided in licensed skilled and intermediate care nursing homes. It must be noted, however, that in Hawaii no facilities licensed as such provide detoxification services; facilities currently providing detoxification services, other than hospitals, are licensed as care home. The State is not entitled to receive Federal matching monies for detoxification services provided in care homes. Therefore, if the State chooses to reimburse these facilities for their detoxification services it will have to assume the entire cost.

Recommendation: Your Committee recommends that the Director, Department of Social Services and Housing, determine the estimated costs of reimbursing facilities, licensed as care homes, for the detoxification services that they provide, and the feasibility of the State carrying the burden of these costs. Your Committee requests that the above mentioned department address this recommendation and provide a status report to the President of the Senate prior to the end of the 1976 Legislative Session.

3. Your Committee finds that there are no policies in force for the licensing facilities that solely provide treatment for alcoholism. Some residential programs are licensed as care homes by the Department of Health; however, the practical application of a care home license to alcoholism treatment facilities have, in most cases, little to do with the direct application of treatment to persons suffering from alcoholism. The Department of Health has recently formed a task force made up of health professionals and representatives from the alcohol treatment community. This task force is in the process of developing standards and regulations for alcohol treatment facilities. Upon completion of their work the Department of Health shall take the necessary steps to adopt these rules and regulations into law in conformity with Chapter 91, HRS.

Recommendation: Your Committee does not see a need to take any action on the issue of licensure at this time.

Signed by Senators Chong, Takitani, Ching, Nishimura, Henderson and Saiki.

Spec. Com. Rep. 14

Your Interim Committee on Education, appointed to study several educational issues which are of continuing concern to the legislature, begs leave to report as follows:

#### INTRODUCTION

Your Committee perceived its charge during the 1975 interim period to encompass several major tasks: (1) to examine selected programs in a manner not permitted by the limited time of a legislative session; (2) to follow up either on issues which surfaced during the session or on programs of particular interest to the Committee; (3) to visit some school and library capital improvement projects in order to judge firsthand how wisely state funds are being spent; (4) to maintain personal contact with the people in the field, particularly at the school level, in order to better understand the problems and the operations of the schools; and (5) to secure community input on issues which may become a focus of legislative attention.

#### FINDINGS

a. Special education. The special education program, after many years of stagnation, finally appears to be moving toward the State's goal of educating all children regardless of type or severity of handicap. Your Committee is encouraged that the waiting list of identified students has been reduced through the legislature's provision of more positions and the department's assignment of qualified teachers. Many problems remain, of course, and your Committee devoted a considerable portion of its interim work to the examination of these problems.

The long-awaited state plan for special education continues to be an object of criticism from some quarters. The department admits that some of the data is now incorrect in light of the current teachers' contract and the faster-than-scheduled allocation of teacher positions. The special education branch has promised to submit to the legislature an update early in the 1976 session. Your Committee has heard again the criticism that the projected target group size in the learning disability category was much too low. Figures were cited by these critics that would seem to dispute the national incidence figures used by the consultant in developing the state plan. In light of these repeated comments, we urge the department to take yet another look at the plans to serve this target group.

The practice of mainstreaming, whereby special education students are placed in regular classrooms for as much of the school day as is appropriate for each child, is a national trend in special education that has been adopted in Hawaii. The concept is incorporated in the state plan and has already been implemented in some of our schools. Your Committee is disturbed, however, by the fact that all of the ramifications of mainstreaming have not been identified and resolved. Specifically, there appears to have been insufficient inservice training for the regular education teachers who, more and more, are having special education students placed in their classrooms for part of the day. Some of these teachers have found that the needs of their regular students are broadened by the addition of special education students to the class. For most teachers, whose preservice preparation did not include training in working with special education students, much less supervising a class of mixed students, assistance of some sort is a prerequisite to receiving the special education students. We recognize, however, that the issue of inservice education for this purpose is tied to the larger issue of compensation for inservice training. Therefore resolution of this particular point may have to await the settlement of that larger issue, and we urge both union and management representatives to make concerted efforts to resolve this issue, not only for the special education program but for the regular education programs as well. Until the larger issue is settled, we urge the department, through its state and district offices, to improve their delivery of inservice training even if only to those teachers who take the training voluntarily.

In its visits to the field your Committee was impressed by the dedication exhibited by the great majority of the staff associated with the special education program. This dedication was evident even in situations where, indeed, the student/staff ratio seemed to be too high. The solution that your Committee favors is the addition of paraprofessionals to those programs where the degree and nature of handicap requires simply more physical assistance rather than more professional instruction. The infusion of more paraprofessional

help would thus free the professional for those educational tasks for which he is trained.

Your Committee recognizes that it will be several more years before the State has all the facilities and programs available, as outlined in the state plan, for all the special education students. In those areas in which state programs are not available, your Committee heard from those who claim that it is inequitable for the State to subsidize some, and not all, categories of handicaps. In recognition of the inherent justness of this position, your Committee requests the department to submit a comprehensive statement to the 1977 legislature on its intentions for the subsidy program in special education. That statement should include the guidelines under which state subsidies are currently granted; the methods of control and accountability established to ensure that state subsidies are being spent as intended by the legislature; and a program design for the possible expansion, on a temporary basis until the State can offer all required programs, of the subsidies to agencies educating children with other handicaps besides severe retardation.

Finally, your Committee believes that serious consideration should be given to the offering of special education programs on a year-round basis with the summer program available as a low-cost option to special education students and their parents. Your Committee agrees with those professionals who claim that special education students, even more so than regular students, regress enough during a summer hiatus to justify the offering of a summer program.

b. CIP projects. In its tour of new school and library facilities your Committee was impressed by the differences among schools in the pride taken in caring for and adorning the facilities. The differences were especially pronounced insofar as student artwork is concerned. Permanent student works of art bring benefit to the school and the community by giving all an opportunity to focus their pride on something unique to that school. We note, however, that where student art was displayed, there was not always identification of the students who worked on the project. We believe that such identification would further instill pride, and we urge the department to act on this matter.

Your Committee also noted some apparent anomalies in the manner in which schools receive works of art or support from the state foundation on culture and the arts. Your Committee was disturbed to learn that a student art project to enhance a new classroom building was refused funding by the foundation on the grounds that there were no funds. We recognize that in the implementation of the one percent law, whereby one percent of the cost of new construction is earmarked for works of art, the foundation is not obligated to expend that one percent on the building from which the monies are derived. We do believe, however, that the schools should be allowed a greater say in how those funds should be spent, and urge the foundation to seek out the principals' views before earmarking all of the one percent. The members of your Committee have wondered aloud whether more stringent legislative guidelines might need to be established in this area of artwork for school facilities.

c. Agriculture program. In its tour of schools during the summer and early fall, your Committee was distressed to see the poor state of most of the agriculture program lands due to the minimal care given them when school is not in session. We understand that the combination of the negotiated contract and the lack of funds to hire summer help has put a severe crimp in the agriculture program. Crops and animals do not operate on a nine-month, September-to-June schedule. In order to stay within the bounds of the contract, most of the agriculture teachers are limited in the crops they can plant and must dispose of many of their animals at the end of the year and start over again in the fall. Too often, well-kept farms reflect the dedication and courage of those agriculture teachers who have resisted peer pressure and have maintained the agriculture area on their own time. It seems to your Committee that a great deal of resources are being wasted under the present arrangement and unnecessary personnel conflict is being fostered. If the agriculture program is deemed an important part of the curriculum, even if only at some schools, then it should not be treated as a stepchild in collective bargaining negotiations or in the allocation of resources.

Your Committee also notes the return-to-the-land movement that has begun to take hold nationally and locally and recommends that the department accommodate student interest and need in this area. We believe that the horticulture program should be expanded as an option for those students who want to learn to grow things on a small scale for present or future recreational or economic reasons.

d. Compensatory education. Your Committee heard from sincere advocates of several compensatory, alternative education programs which appear to be meeting the needs of some segments of our student population. The programs have been funded in

in the 1975-77 budget but have only recently been allocated by the executive. There did not seem to be much doubt in the minds of the Committee that these programs were making some headway in helping their respective target groups and we commend those responsible for their efforts. We urge the department to strive for greater flexibility in accepting a range of alternative programs and to incorporate these in their funding plans.

e. Library program. In visiting school and library facilities during the summer, your Committee witnessed graphic examples of the wastefulness of continuing to operate the library program as it is presently constituted. School libraries were completely closed down for the summer whereas community/school libraries were open to the public and were being used by the communities fortunate enough to have them. In rural areas, especially, the accessibility of the school library during the summer and after school would be a welcome addition to the community's resources. Your Committee also saw how much more disadvantaged are the schools with only school libraries compared to the schools with community/school libraries nearby since the construction and equipment standards for community/school libraries offer far more in facilities and potential services.

Moreover, the present arrangement also wastes the background in teaching and curriculum that a school librarian brings to the school. She could be a significant asset to the school's curriculum planning and implementation tasks if she were freed to work more closely with the faculty on curriculum media and materials. The students also suffer from this waste of the school librarian's talent, for they are largely denied the instruction in library skills which should be an integral part of the basic education we should provide in our schools. The routine aspects of managing and operating a library facility within the administrative systems of the office of library services should not occupy the school librarian's attention as much as they currently do. It must be very frustrating to the conscientious school librarian to be unable to utilize her training to the utmost.

Your Committee believes that the library program is becoming very much an economic issue just as other aspects of the school system are. We who are responsible for the fiscal health of our State must seek ways, however painful, to reduce duplication and waste in state programs. A very hard look at the library program is one place to start.

f. Basic staffing. The public testimony that your Committee received regarding the basic staffing plan for schools was generally in favor of implementation, particularly on the part of those employee groups which would be enlarged by the staffing formulas. Upon closer examination by your Committee, however, we feel that the formulas taken in total are unrealistic and would result in unnecessarily high recommended total staffing at any given school. This view was confirmed in informal discussions with administrators who, while desiring additional help at their schools, admitted that such help need not be granted on so large a scale as proposed in the basic staffing plan.

On a related matter, it disturbed your Committee that there was not sufficient recognition of the desirability of placing more paraprofessionals in the schools. Your Committee suggests that there are areas in a school where the need for an adult presence may very well be filled by a paraprofessional. Resource rooms are an example. Your Committee found that often resource rooms are available for only a limited time because no teachers can be freed to supervise the facility. Might not a paraprofessional, perhaps of the public library aide type, provide the services necessary in a resource room. Given a specific dollar amount, it seems to your Committee that administrators and students would prefer resource rooms staffed by paraprofessionals that were open for longer hours to the present situation.

g. Governance. Your Committee studied the effects of the court-ordered reapportionment of the board of education, which has resulted in all of the neighbor islands being represented by two board members and all of Oahu by seven members. Residents on Maui and Kauai testified that they feel they are receiving lessened representation because the two neighbor island members are from Hawaii. Those testifying assured your Committee that such lessened representation is not the fault of the incumbents; that they, in fact, have done a yeoman's job in trying to provide coverage for the six islands of the board district. They felt that asking these two members to represent them adequately was too much to ask. While most of those testifying realized why the reapportionment had gone the way it did, inasmuch as it must conform to the constitutional requirements of the one-man, one-vote principle for elected representation, they nevertheless requested the legislature to remedy the situation. It seems to your Committee that the issues have been clearly delineated and the question returns once more to the method of selection of the board. If we are to keep the elected board, ensure representatives for Maui

and Kauai, and conform to constitutional requirements, then there is no alternative but to propose a very large board. If the board is to be kept within more manageable proportions and provide representation for Maui and Kauai, then the alternative is an appointed board. Admittedly, the legislature has wrestled with the question for several years. And admittedly, the question when put on the referendum ballot was voted down. But that was several years ago. We have since had some actual experience with the present reapportionment plan and have also gained a better understanding of the alternatives available. We must seek to increase the public's awareness of the problems and alternatives.

The issue of the authority of the board relative to the authority of the legislature was also considered by your Committee. The issue was brought to the fore by the governor's release of some, but not all, of the expansion funds appropriated by the legislature for the 1975-76 school year. The board established its own priorities for those funds and others anticipated for release and did not initially consider those programs included by the legislature in the appropriations act. After some discussion, it was agreed by all concerned that the board would reexamine its priorities to include the legislative input.

### RECOMMENDATIONS

Your Committee recommends:

1. That the department seriously reexamine its inservice training plans for the regular education teachers who will or have had special education students placed in their classrooms and take steps to ensure that these teachers receive the inservice training.
2. That the department, in its revisions to the state plan for special education, reexamine its target group of learning disability students in light of any new information that may have been uncovered since the plan was drafted.
3. That the department submit a comprehensive plan for subsidies to agencies providing services that the State is not.
4. That in the bargaining for the next teachers' contract, both management and labor consider the problem of the agricultural program and the serious setbacks undergone by the program as the result of the rigid interpretation of the current contract.
5. That the department and the legislature seriously consider the diseconomies in operating school, community/school and public libraries with the obvious waste in public funds and personnel talent that such continuation engenders.
6. That the department be urged to allow more flexibility in its curriculum to allow for alternative strategies to educate students.
7. That the department reconsider its basic staffing formulas as a total package to be applied to a school rather than as a collection of separate formulas to be applied to each category of personnel.
8. That the department consider the greater use of paraprofessionals where the tasks to be performed are of a paraprofessional rather than of a professional nature.
9. That the legislature continue to examine the merits and demerits of all the subissues involved in the governance of public education.

Signed by Senators Hara, Yim, Ching, Hulten, Kuroda, Takitani, Young, Anderson, Saiki and Yee.

Spec. Com. Rep. 15

Your Interim Committee on Health to which was referred S.R. No. 182 entitled:

"REQUESTING THE COMMITTEE ON HEALTH TO INVESTIGATE THE DEFICIENCIES OF THE STATE HOSPITAL, AND TO FORMULATE RECOMMENDATIONS TO ENABLE THE HOSPITAL TO MEET ACCREDITATION AND LICENSING STANDARDS.",

begs leave to report the following findings from our interim investigation:

Because of the failure of the Hawaii State Hospital to meet accreditation standards, your Committee set for itself the following tasks: to monitor efforts of the hospital to meet accreditation standards of the Joint Commission on the Accreditation of Hospitals; to monitor efforts of the hospital to meet adequate staffing standards, and to monitor efforts of the hospital to develop a facility for the criminally insane.

The findings of your Committee on Health in relation to efforts of the Department of Health to meet standards of the Joint Commission on Accreditation of Hospitals are that a complex development report has been completed which projects the necessary additional space requirements on wards and upgrades facilities to meet basic fire and health regulations.

It is the feeling of your Committee that the loss of accreditation means a loss of status for our State program and would place any potential training programs in jeopardy. However there are no plans for the development of such programs and the loss of accreditation does not seriously impair the State's ability to provide treatment programs for the mentally ill.

The findings of your Committee in relation to adequacy of staffing patterns are that as of February 2, 1976, there were 9 vacant positions on the adult ward, 13 vacant positions for the Closed Intensive Security Unit, 5 vacant positions for the Medical Surgical Unit, one vacancy for the Neuropsychology program and 5 vacant positions for the Adolescent Unit. These vacancies are due primarily to recruitment difficulties. If the standards for adequate staffing patterns were based upon those of Wyatt v. Stickney, the vacancies would be slightly higher.

The findings of your Committee in relation to the Development of a High Security Unit for the Criminally Insane are that the occupancy of the facility has been delayed from March to May due to a four-month strike by the steel fabricators. It will be organized into four, 4-bed wards, one 2-bed ward and three isolation rooms. The Closed Intensive Security Unit will house both men and women and will function on a 7-day-a-week, 24-hour day schedule. Your Committee commends the State Hospital for its effort in expeditiously developing the High Security Unit for the Criminally Insane. The necessity and value of this action is recognized. However, your Committee emphasizes the importance of the formulation of individualized treatment plans stressing rehabilitation for each patient which is consistent with the State's long-standing commitment to move toward deinstitutionalization. Your Committee further emphasizes the urgent need for the development of a master plan for the "criminally insane".

In view of the history of decentralization of mental health services in Hawaii, and in view of the treatment of patients in the community is often more humane and probably less costly than the State Hospital, your Committee makes the following recommendations in regard to the up-grading of the physical facilities at Kaneohe State Hospital: it is recommended that a study of the community-based social rehab model, as an alternative to hospitalization, be undertaken before great amounts of money are spent on capital improvements. The study should document the residential placement and social and vocational rehabilitation needs of the mentally ill in Hawaii and the costs of the social rehabilitation model as opposed to costs of institutionalization for the various target populations.

In relation to adequate staffing patterns for treatment your Committee recommends that for the Adult Wards the vacant positions must be filled plus additional positions added to provide minimal levels of treatment. The Complex Development Report by Naramore, Bain, Brady and Johnson is being reviewed in regard to staffing needs and a study is being done by the Mental Health division of the Department of Health comparing psychiatrist's salaries in Hawaii with those on the mainland.

In May, 1976, the Closed Intensive Security Unit will move to the new facility in the Guensberg Building. At that time, a full staff component will be necessary to provide minimal levels of treatment to the criminally insane.

The vacant positions in the Medical Surgical Unit should be filled immediately to provide for minimal levels of treatment. Additional positions should be assigned only after it is decided where this unit will be located in the future, i. e. at Hawaii State Hospital or at Leahi.

One position is required for program effectiveness of the Neuropsychology Unit. No additional positions are required at this time.

Finally, in regard to the filling of vacant positions, your Committee recommends that the vacant positions in the Adolescent Unit be filled to insure minimal levels of

treatment based upon maximum census. No additional positions should be added to this unit until its future is decided.

In relation to the development of a High Security Unit for the Criminally Insane, your Committee recommends that appropriate staff levels be maintained and the individual treatment plans be developed for every patient so that the unit does not become a "dumping ground". It is further recommended that before additional resources are released for expansion of the High Security Unit for the Criminally Insane, a policy decision must be made regarding who will have ultimate responsibility for the criminally insane. Therefore, the development of a master plan for the criminally insane ought to become a priority of the Mental Health Division.

Signed by Senators Chong, Takitani, Ching, Nishimura, Henderson and Saiki.

Spec. Com. Rep. 16

Your Interim Committee on Health held a hearing on November 17, 1975, TO EXPLORE THE IMPLICATIONS FOR HAWAII OF THE RECENT SUPREME COURT RULING ON ISSUES RELATING TO THE LEGAL STATUS OF THE MENTALLY ILL AND RIGHT TO TREATMENT.

Your Committee begs leave to report the following findings from our interim investigation:

Your Committee finds that, in view of recent court decisions, the Hawaii Revised Statutes relating to commitment procedures and to the provision of alternative programs of treatment are inadequate allowing for decisions of an arbitrary nature and commitment to an institution due to the lack of less restrictive alternatives. Your Committee finds that there is great need for clarification and standardization of procedures of commitment of mentally ill and mentally retarded persons.

#### Relevant Judicial Decisions

Your Committee reports that Judge Samuel P. King of the United States District Court for the District of Hawaii has found on February 24, 1976, "that H.R.S. Chapter 334-53, the nonconsensual conversion feature of H.R.S. Chapter 334-54(f), the transfer provisions of H.R.S. Chapter 334-71 and of H.R.S. Chapter 334-73, and the authorizations set out in H.R.S. Chapter 334-51(a)(2) and (5), as written and as applied, are in violation of the Due Process Clause of the Fourteenth Amendment."

Your Committee further finds the following other recent court decisions to be relevant:

(1) The case of Donaldson v. O'Connor (1975) was the U.S. Supreme Court's first decision regarding the rights of civilly committed mental patients. The Court found "That involuntary commitment to a mental hospital, like involuntary confinement of an individual for any reason, is a deprivation of liberty which the State cannot accomplish without due process of law." The Court further supported a Constitutional right to treatment. "To deprive any citizen of his or her liberty upon the altruistic theory that the confinement is for humane therapeutic reasons and then fail to provide adequate treatment violates the very fundamentals of due process." The conclusion must be that with respect to individuals who are not physically dangerous, a state may not confine that person except for the purpose of providing treatment beyond custodial care.

(2) The case of Wyatt v. Stickney the trial judge set minimum medical and constitutional standards for a hospital which were similar to those adopted by the Joint Commission for the Accreditation of Hospitals.

(3) The case of Dixon v. Weinberger (1975) established the requirement of a continuum of treatment facilities running from more to less restrictive facilities.

(4) The case of Gross v. State of Hawaii (1976) consent decree established the State of Hawaii obligation to meet the standards for "intermediate care facilities for the mentally retarded as set forth in the regulations of the Secretary of HEW dated January 17, 1974" which state that a "'Resident' of an intermediate care facility is a patient or other individual who has been admitted to an intermediate care facility. . . and is under a planned program of care and supervision on a continuous 24-hour-a-day basis, and in the case of institutions for the mentally retarded or persons with related conditions is also receiving active treatment."

In Judge King's February 24, 1976, decision regarding the case of Suzuki v. Quisenberry the issue of due process was addressed.

### The Due Process Issue

The purpose of due process is to establish procedures through which governmental decisions which affect the liberty or property of citizens can be scrutinized. When process is due, it can be denied only if the person affected makes a knowing and intelligent waiver. When it is considered in that light, the current Hawaii Revised Statutes provide no due process for mentally ill persons. Opportunity for a hearing concerning the correctness of the commitment decisions is granted only after commitment has taken place, only upon the request of the patient or his representative, and the patient must shoulder the burden of justifying his release. None of these procedures can be fully reconciled with due process.

Your Committee on Health further finds that the vagueness of definition of "mental illness" leaves entirely too much to the discretion of individuals in initiating commitment. Your Committee recognizes the inherent difficulty in defining mental illness due to the wide range of problems from severe psychotic behavior, in which the person may be dangerous to himself or others, to behavior which is merely eccentric or unusual. Due process standards are not absolute. The magnitude of one's rights in any given situation depends upon the balancing of public and private interests. In situations where there exists a demonstrable need for immediate action to respond to emergency situations, the rights to which one is entitled are less than where thorough consideration of alternative courses, actions can be evaluated. Consequently, where there is sufficient evidence of an emergency need for commitment, no procedural safeguard need be imposed prior to commitment. There must be a firm foundation, based on credible evidence that danger is imminent. Thus, where, under proper standards, government officials act to prevent imminent injury by a person thought to be mentally ill, they need not stop to conduct a hearing in advance of implementing protective custody; delay itself may promote the injury. Due process, however, requires that proper standards be used to determine when such emergency measures can be employed.

### Involuntary Commitment When No Crime Is Involved

Your Committee on Health finds that certain groups of Americans are currently "protected" by law from enjoying the freedom to make their own choices even though they have neither been judged guilty of a crime nor demonstrated behavior that suggests that they may be potentially dangerous to themselves or others. Liberty is generally understood as having the freedom to do as one chooses so long as those actions do not infringe on others' freedoms. Your Committee finds the mentally ill and mentally retarded are too quickly shut off from society for the mere guilt of being "different." It is particularly appropriate laws which make this possible be revised during this bicentennial year.

### Incompetency Becomes a Self-fulfilling Prophecy

Your Committee finds that the intent of such laws was most probably benevolent but that the result of one set of laws for the "normal" and another for the mentally and physically handicapped and disabled is to deny significant constitutionally guaranteed liberties. Your Committee further finds that the pattern of treatment, which treats them as unable to care for themselves, runs the risk of becoming a self-fulfilling prophecy. The mentally or emotionally handicapped person may, in fact, become literally incompetent by virtue of society's inability to provide the benefits available to "normal" people. It is easier and cheaper, apparently, to legislate the mentally and emotionally handicapped out of schools, voting booths, and family living than it is to design new programs or concepts to assist them to become more independent, healthy persons.

In summary, your Committee on Health finds that if the State of Hawaii has any obligation to persons committed to State institutions through civil commitment procedures, it is to increase their options and to expand their opportunities to develop their potential.

Your Committee recommends a thorough study and investigation by the Department of Health of the Hawaii Revised Statutes regarding civil commitment procedures and of treatment programs of individuals currently committed to State institutions.

Your Committee further recommends that the Department of Health work closely with the Departments of Psychology and Sociology of the University of Hawaii, the Mental Health Association of Hawaii, the Hawaii Psychiatric Association, and the Hawaii Psychological Association in its investigations and that the Department of Health take the necessary steps to ensure that an adequate plan of action for commitment procedures of persons civilly committed to State institutions be presented to the State Legislature no later than twenty days prior to the convening of the 1977 legislative session.

Signed by Senators Chong, Takitani, Ching, Nishimura, Henderson and Saiki.



## CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. No. 1-76 on H.B. No. 1499

The purpose of this bill is to effect more efficient and responsive administration and to defray the cost of the state small boating program.

It is the intent of this bill to clarify legislative intent so that the Department of Transportation can follow specific guidelines in administering and financing the state small boat harbors. Further, your Committee finds it necessary to reorganize the Harbors Division of the department of transportation to include a new branch the sole purpose of which shall be the administration of the state small boat harbors, and a comprehensive boating program.

Since small boat harbors are built for and used by boaters who moor their boats in the harbors, and facilities such as piers and catwalks are dedicated exclusively and permanently to their use, your Committee feels that these boaters should be responsible for the costs of capital improvements devoted to their primary or exclusive use as well as the costs of maintaining, operating and managing the harbor facilities constructed after July 1, 1975 along with operation, maintenance and other costs to be paid solely from the boating special fund.

Your Committee finds that Section 266-20(7) does not and cannot impair the inherent constitutional authority of the legislature in the future to appropriate and the executive branch to use general obligation bonds with debt service amortized from general funds on small boat harbors. However, where bonds are authorized as reimbursable general obligation or revenue special fund for certain small boat harbor payment, then it is the intent of this section that the debt service and costs of these bonds be borne by the small boat harbor fund so that the users of these harbors will pay their own way.

Under the current fee schedule, the special fund is unable to cover the added costs. Since these fees constitute the major support of the program, an increase in fees is necessary. It is anticipated that the department of transportation should move forth with a new fee schedule.

Your Committee finds it necessary to establish a fee structure in which non-state residents shall pay an application and permit fee differential. This is intended to equalize the burden of cost of constructing, operating and maintaining state small boat harbors for the state taxpayers. It is recommended that the Department adopt the requirement for resident status that the individual file a state income tax return or show other valid proof.

Your Committee decided that the optimum level of the future number of live-aboards shall not exceed fifteen (15) percent of the respective total space available as of July 1, 1976 at the Ala Wai and Keehi small boat harbors. It is the intent of your Committee that this limit apply only to those harbors where live-aboard permits are presently issued by the department of transportation. In other words, no live-aboard permits shall be issued for any other state small boat harbor except for Ala Wai and Keehi harbors.

Moorage for commercial vessels is permitted in state small boat harbors in cases where there is no commercial harbor within three statute miles. If a vessel is used for commercial purposes from its permitted mooring, the permittee shall pay in lieu of the moorage and live-aboard fees, a fee based on a percentage of the gross revenues derived from the vessel.

Your Committee further finds it necessary to require all vessels moored in a state small boat harbor to have a valid permit. All vessels applying for a permit or a permit renewal must pass an inspection of minimum requirements by a marine surveyor approved by the department of transportation. This is intended to exclude derelicts and house boats moored within state small boat harbors.

Your Committee has amended this bill to reflect the Committee's intent as stated above. Further, your committee has made the following amendments:

- 1) Eliminated the word "taxes" in Section 4 because of the opinion of the Attorney General's Office that the use of tax on live-aboards may be unconstitutional;

- 2) Changed the word "shall" to "may" in Section 4 to read "(d) the department may provide moorage space within state small boat harbors to accommodate visitors on cruising vessels", because the department felt that the use of the word "shall" in statute would, at times create a burden on state small boat harbors;
- 3) Clarified the language of the grandfather clause;
- 4) Added a severability clause to be Section 9 of the bill;
- 5) Reworded or rephrased throughout the bill for the purposes of style and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1499, H.D. 1, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1499, H.D. 1, S.D. 1, C.D. 1.

Senators O'Connor, Ching, Taira and Ching  
Managers on the part of the Senate

Representatives Cayetano, Blair, Kiyabu and Ikeda  
Managers on the part of the House

Conf. Com. Rep. No. 2-76 on H.B. No. 3262-76

The purpose of this bill is to provide additional protection to parcels of prime agricultural land within the agricultural district, which prime agricultural lands are defined as lands with soils classified by the Land Study Bureau as Class A or B. Thus, your Committee has amended the law relating to the Land Use Commission by adding a new section to Chapter 205, Hawaii Revised Statutes, and by amending Section 205-12 relating to enforcement and Section 205-13 relating to penalties.

After careful consideration, your Committee finds there is a danger that agricultural subdivisions may be approved by the counties, and thus, put agricultural lands to uses other than for an agricultural pursuit. Inasmuch as the purpose of the agricultural district classification is to restrict the uses of the land to agricultural purposes, the purpose could be frustrated in the development of urban type residential communities in the guise of agricultural subdivisions.

To avoid possible abuse within the agricultural district, this bill more clearly defines the uses permissible within the agricultural district. Except for those uses permitted under special use permits in Section 205-6 and those nonconforming uses permitted in Section 205-8, uses not specifically permitted by this bill shall be prohibited. This bill further provides that the restrictions on uses and the condition that the uses shall be primarily in pursuit of an agricultural activity shall be expressly contained in the instruments of conveyance and shall be encumbrances running with the land. However, upon reclassification of the land to a land use district other than agricultural, all aforesaid restrictions and conditions are null and void. A provision for a conditional waiver of the deed restrictions is included in this bill for situations where mortgage financing is jeopardized.

Your Committee's concern over lands classified A or B should not be interpreted as a lack of concern over other lands within the agricultural district. It is just as important to protect, for example, the Hanalei taro lands, the Puna papaya lands, and the Kona coffee lands, as it is to protect the A or B lands of Central Oahu. Therefore, this bill is not intended to change the existing permitted uses on lands within the agricultural district which are classified other than A or B. Rather, the intent of this bill is to give additional protection to those lands within the agricultural district which are classified as A or B.

Your Committee has amended the bill as follows:

1. To further define Class A or B lands;
2. To define "farm dwelling";
3. To delete all earlier provisions relating to exceptions for those parcels of lands within the agricultural district which consist of several different soil classifications.

Your Conference Committee is in accord with the intent and purpose of H.B. No. 3262-76, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading

in the form attached hereto as H.B. No. 3262-76, H.D. 2, S.D. 1, C.D. 1.

Senators F. Wong, Hulten and Henderson  
Managers on the part of the Senate

Representatives Kawakami, Uechi, Kihano and Clarke  
Managers on the part of the House

Conf. Com. Rep. No. 3-76 on H.B. No. 1886

The purpose of this bill is to increase the number of exempt employees within the office of the lieutenant governor from six to ten.

Since the passage of Act 303, Session Laws of Hawaii, 1967, establishing the ceiling of six civil service exempt positions, demands made upon the office of the lieutenant governor have increased. An increase to the number of exempt positions would allow the lieutenant governor more flexibility and staff support to carry out responsibilities of the office.

Your Committee, upon further consideration, has amended the measure by reducing the number of exempt civil service positions from ten to eight.

Your Committee on Conference is in accord with the intent and purpose of H.B. 1886, S.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1886, S.D. 3, C.D. 1.

Senators Toyofuku, Taira and Henderson  
Managers on the part of the Senate

Representatives Lee, Peters, Sakima, Yuen and Larsen  
Managers on the part of the House

Conf. Com. Rep. No. 4-76 on H.B. No. 2812-76

The purpose of this bill is to amend Chapter 387, Hawaii Revised Statutes, which deals with the Hawaii Wage and Hour Law, by excluding a youth camp staff member in resident situations in youth camps from coverage of the minimum wage law.

Your Committee finds that youth camp staff members in resident situations are generally on duty 24 hours a day because of their responsibility for the safety and wellbeing of the campers. In such instances, it is difficult to determine the hours of work and conditions of these employees. If these staff members are not exempt from the minimum wage law, the cost of operating youth camps would increase such that the average working family could no longer afford this type of experience for their children.

Your Committee has amended this bill by including the word "seasonal" to ensure that permanent staff members are not included in the exemption to the minimum wage law.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2812-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2812-76, H.D. 1, S.D. 1, C.D. 1.

Senators Toyofuku, Taira and Henderson  
Managers on the part of the Senate

Representatives Peters, Machida, Naito, Takamine, Kamalii and Santos  
Managers on the part of the House

Conf. Com. Rep. No. 5-76 on S.B. No. 1821-76

The purpose of this bill is to allow an employer who has prepaid the premium for health care coverage to deduct, in cases of voluntary separation, the employer's share of the premium from the employee's last paycheck or to seek other appropriate means to recover the premium. The employer may deduct an amount not to exceed one-half of the premium cost but without regard to the 1.5 per cent limitation.

The Prepaid Health Care Law requires every subject employer to provide health care coverage for his employees. Premiums are usually paid a month in advance to the prepaid health care contractor, necessitating that the employer prepay the employee's share and

later withhold the amount from the employee's wages. Should the employee leave his job soon after the employer has made the premium prepayment, the employer cannot recover such prepayments.

Your Committee on Conference has amended the bill by enabling the employer to deduct, in cases of voluntary and involuntary separation, the employer's share of the premium from the employee's last paycheck.

Your Committee on Conference believes this amendment would retain the basic concept of Section 393-13, Hawaii Revised Statutes, which allows an employer who has prepaid the premium for health care coverage to recover, in all cases of separation, an amount not to exceed one-half of the premium cost but without regard to the 1.5 per cent limitation.

Your Committee on Conference is in accord with the intent and purpose of S.B. 1821-76, H.D. 1, as amended and attached in the form hereto as S.B. 1821-76, H.D. 1, C.D. 1, and recommends its passage on final reading.

Senators Toyofuku, Taira and Henderson  
Managers on the part of the Senate

Representatives Segawa, Lee and Kamalii  
Managers on the part of the House

Conf. Com. Rep. No. 6-76 on S.B. No. 1830-76

The purpose of this bill is to authorize the Director of Personnel Services, under certain circumstances, to make initial appointments at any step within the appropriate salary range, but limiting such recruitment above the minimum step to classes SR-18 and above. In the case blue collar classes, the range which includes a rate substantially comparable to the minimum step of SR-18 shall be applied as a limitation.

Your Committee finds that currently, in occupational areas where recruitment is difficult, it is permissible to hire above the minimum step within the appropriate salary range. However, the highest step that can be offered any eligible person is the lowest step within a salary range that an eligible person requests.

Your Committee further finds that this bill would remedy situations where a department is impeded from securing another eligible who is better qualified for the position and requests a higher step within a salary range.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1830-76, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1830-76, H.D. 1, C.D. 1.

Senators Toyofuku, Taira and Henderson  
Managers on the part of the Senate

Representatives Lee, Peters, Yamada and Santos  
Managers on the part of the House

Conf. Com. Rep. No. 7-76 on S.B. No. 528

The purpose of this bill is to remove the Judiciary from the inappropriate role of having to make determinations about certain trial expenses in criminal cases which in effect determine the quality of the case the prosecution or the defense presents at trial.

At present, the courts have an account titled "Legal Expenses" which is looked to by both the prosecutor and indigent defendants to pay for witness expenses, transcript costs in the case of indigent defendants and investigatory, expert and other services. In managing the funds, the courts are called upon to pass on the reasonableness of making the requested expenditures. The responsibility for obtaining and expending the necessary funds for trial expenses should be left to the prosecutor's office and the public defender's office and not with the courts.

The bill repeals Section 621-11, Hawaii Revised Statutes, dealing with subpoenaing witnesses for the defendant at State expense.

The present in forma pauperis appeal procedure is abolished by repealing Section 801-5(721-5), Hawaii Revised Statutes. However, this does not mean the right to in forma pauperis appeal is abolished because Section 802-7(722-7), Hawaii Revised Statutes,

is amended to provide litigation expenses to fill the void left by repealing Section 621-11 and 801-5(721-5), Hawaii Revised Statutes.

The effective date of the bill is July 1, 1977 to coincide with the effective date of the next biennial budget. That date will also give the Supreme Court an opportunity to review and revise the rules related to the subject matter of the bill.

Your Committee recommends that this bill be amended by renumbering the appropriate Sections to conform to the correct Sections in the Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 528, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 528, S.D. 1, H.D. 1, C.D. 1.

Senators Nishimura, O'Connor and George  
Managers on the part of the Senate

Representatives Roehrig, Cayetano and Sutton  
Managers on the part of the House

Conf. Com. Rep. No. 8-76 on S.B. No. 1775-76

The purpose of this bill is to clarify the relationship between prepaid legal services and statutory regulation and taxation. This bill provides for the regulation of prepaid legal services by the department of regulatory agencies by subjecting prepaid legal service plans to consumer protective legislation; by requiring public filing requirements with a statement of the plan's financial structure, benefits, terms and conditions and other required information; by protecting accumulated funds by requiring the filing of a bond or security in lieu of a bond; by requiring an annual exhibit; by controlling investments of the plan; and by providing a penalty for failure to comply with the new law. The bill further provides that prepaid plans are not insurance unless offered by an insurance company. The bill clarifies the income taxation of such prepaid plans by providing that plans offered by certain tax exempt organizations are themselves tax exempt and by providing that the value of legal services provided by a plan to a taxpayer are not taxable to the taxpayer, that amounts paid to a taxpayer to reimburse him for legal services are not taxable to the taxpayer and by providing that contributions of an employer to a plan are not taxable to his employees. Lastly, the bill provides that plans offered by exempt organizations are exempt from general excise taxation.

Prepaid legal service plans are a method by which legal services may be provided to lower and middle income persons at a price they can afford. A prepaid legal service plan is a plan between a group of consumers and one or more attorneys in which the attorneys agree to provide certain legal services to the group. Through formation of a group of consumers, these legal services are provided at a lower price than would be available on an individual basis. In addition, the prepaid legal service plans are a method by which legal services may be afforded to lower and middle income persons at a price they can afford. A prepaid legal service plan is a group legal service plan in which the cost of the services have been prepaid by the group member or by some other person or organization in the member's behalf. A group legal service plan means a prepaid plan by which legal services are rendered to individual members of a group identifiable in terms of some common interest.

The bill further provides that individual members will be afforded the freedom of choice in the selection of their own attorney or attorneys to provide legal services under such plan, that equal amounts for the cost of services rendered without regard to the identity of the attorney or attorneys selected by the plan member or members shall be paid and that no plan discriminate on the basis of the selection of an attorney.

Your Committee finds that prepaid legal service plans are a growing method of providing legal services on the mainland and that such plans are now being formed in Hawaii. The report of the Office of the Legislative Reference Bureau concerning Prepaid Legal Services and Hawaii found that 17 per cent of the labor unions and 11 per cent of the credit unions answering their questionnaire indicated plans for the formation of prepaid plans within three years. The report further found that there are approximately 200,000 persons between the income levels of \$7,000 and \$20,000 who are the persons to which these plans are directed. Further, there are 130,000 persons with incomes over \$15,000 but less than \$75,000 who may also be potential users of these plans. The possibility also exists that some persons entering these plans may presently be otherwise eligible for legal aid or a similar service and such plans will therefore provide relief for these overburdened agencies.

Prepaid legal service plans appear to your Committee to benefit the people of Hawaii. Such plans are now in the formative and experimental stage of development and your Committee finds that overburdensome regulations at this stage would not encourage the growth necessary for such plans. Therefore, your Committee is in favor of this bill which provides that prepaid plans shall not be treated as insurance unless an insurance company is involved. Your Committee does not feel that the requirement of large paid-in capital or surplus, rate schedule filings, and similar regulation is necessary at this stage of the development of prepaid legal service plans.

Your Committee also finds that the tax treatment of prepaid plans should be similar to prepaid medical plans now operating in Hawaii. The bill so provides and your Committee is in favor of such provisions.

Your Committee amended the bill by making language changes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1775-76, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1775-76, S.D. 1, H.D. 1, C.D. 1.

Senators Nishimura, O'Connor and Leopold  
Managers on the part of the Senate

Representatives Roehrig, Yamada and Medeiros  
Managers on the part of the House

Conf. Com. Rep. No. 9-76 on S.B. No. 1786-76

The purpose of this bill is to enable the Office of Consumer Protection to obtain restitution for consumers who have sustained damages as a result of unlawful acts and practices which are the subject of the action and who testified in the prosecution of the action.

Act 99, Session Laws of Hawaii 1975, provided that in any civil action brought by the Director of the Office of Consumer Protection to collect civil penalties or enjoin any unlawful acts or practices, the court hearing the action may include in its orders or judgments such provisions as may be necessary to effect restitution to any person who sustained damages as a result of the unlawful acts and practices which are the subject of the action and who complained to the office of consumer protection prior to the initiation of the action. Since enactment, this provision "that a person, in order to obtain restitution, must have complained to the Office of Consumer Protection prior to the initiation of the action" has proven to be very restrictive in its scope and has denied certain consumers restitution.

Your Committee recommends that this bill be amended by providing that restitution may be granted to any person who has filed a written complaint with the Office of Consumer Protection and who has sustained damages as a result of the unlawful acts and practices which are the subject of the action. It is the intent of your Committee to allow consent decree but no class action under Section 487-14, Hawaii Revised Statutes. Only these persons who have filed a written complaint with the Office of Consumer Protection will be entitled to restitution.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1786-76, S.D. 1, H.D. 1, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1786-76, S.D. 1, H.D. 1, C.D. 1.

Senators Nishimura, Kuroda and Saiki  
Managers on the part of the Senate

Representatives Yamada, Cayetano, Naito and Fong  
Managers on the part of the House

Conf. Com. Rep. No. 10-76 on S.B. No. 1998-76

The purpose of this bill is to enable the liquor commissions in the State to obtain criminal information of applicants for liquor licenses.

Section 831-3.1, Hawaii Revised Statutes, prohibits a person from being disqualified to engage in a business for which a license is required, solely by reason of a prior conviction of a crime. This bill amends Section 831-3.1(a) and 831-3.1(d) by providing that Section 831-3.1 shall not apply to a person who has been convicted of a felony when applying for a liquor license.

Your Committee amended the bill by deleting the amendment to subsection (d) of Section 831-3.1 because it felt the amendment was redundant.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1998-76, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1998-76, H.D. 1, C.D. 1.

Senators Nishimura, O'Connor and George  
Managers on the part of the Senate

Representatives Yamada, Yap and Medeiros  
Managers on the part of the House

Conf. Com. Rep. No. 11-76 on S.B. No. 2739-76

The purpose of this bill is to prohibit discrimination against any person on the basis of a physical handicap.

Your Committee feels that the denial of educational opportunities, covenants, real estate transactions, financial assistance, choice of residency or participation in jury service for any person with a physical handicap constitutes discrimination. It is the intent of this bill to set forth specifically the areas in which discrimination against a person with a physical handicap may result in an abridgement of that person's rights.

Your Committee recommends that the bill be amended by amending the definition of "physical handicap" in the appropriate Sections of the Hawaii Revised Statutes as follows: "a physical impairment which substantially limits one or more of a person's major life activities."

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2739-76, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2739-76, H.D. 1, C.D. 1.

Senators Nishimura, Chong and Saiki  
Managers on the part of the Senate

Representatives Roehrig, Stanley and Medeiros  
Managers on the part of the House

Conf. Com. Rep. No. 12-76 on H.B. No. 2130-76

The purpose of this bill is to remedy various problems in the Residential Landlord-Tenant Code.

The bill changes the following sections of the Code:

1. Section 521-42

This bill requires that prior to the initial date of occupancy, the landlord shall inventory the premises and make a written record detailing the condition of the premises and any furnishings or appliances provided. This amendment is intended to protect both the landlord and tenant from false, inaccurate, or misleading claims regarding the condition of the premises at the commencement of the tenancy.

2. Section 521-43

Presently, this section requires the landlord to make certain disclosures as to the owner or his agent in writing to the tenant. This bill adds a new subsection to permit the landlord to satisfy the disclosure requirements by posting the information, in an elevator or other conspicuous place, in the case of single-owner, multi-unit structures. If there is more than one owner of a multi-unit dwelling structure, the information may be posted in a conspicuous place within the unit.

3. Section 521-45

Presently, under this section, a landlord who sells a rented unit is relieved of any liability arising under the rental agreement. The proposed amendment requires that the landlord notify the new owner in writing of the existing rental agreement in order to be relieved of any liability arising from the rental agreement. The purpose is to clearly define responsibility in order to prevent the situation of the tenant not

knowing who is responsible under the rental agreement.

4. Section 521-61

At the present time, a tenant has no remedies if the landlord puts him in possession of the rental unit at the agreed time but not in the agreed upon condition because his remedies only apply if the landlord fails to put him in possession at the agreed upon time. The bill addresses this shortcoming, expanding the applicability of section 521-61 to make the remedies therein enumerated applicable to a landlord's failure to put the tenant into possession of the dwelling unit in the agreed condition as well as at the agreed time.

5. Section 521-64

This section, which deals with the tenant's rights to make certain repairs to the premises and deduct the cost of the repair from his rent, is confusingly worded. This bill rewords the section to make it more understandable to both landlords and tenants.

6. Sections 521-69 and 521-72

These sections currently require a thirty day period before a landlord can recover possession of a dwelling unit from a tenant who has breached the terms of the rental agreement. The thirty day period has proved to be too long and burdensome to both landlords and neighboring tenants who may be affected by the actions of the breaching tenant. In order to correct this problem, the bill reduces the waiting period to fifteen days.

Your Committee, upon further consideration, has amended H.B. No. 2130-76, H.D. 1, S.D. 1, by deleting the proposed change to section 521-64 which would have authorized tenants to make "emergency repairs" to the premises upon the failure of the landlord to effect repairs within a specified number of days and to deduct the cost of the repairs from the rent. The deletion was made because the term "emergency repairs" was ambiguous and could lead to misunderstandings between landlords and tenants as to what type of repairs were included within the term.

Your Committee further amended the bill by changing the style and format of the remaining proposed changes to section 521-64. These amendments have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2130-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2130-76, H.D. 1, S.D. 1, C.D. 1.

Senators Nishimura, Kuroda, O'Connor and George  
Managers on the part of the Senate

Representatives Yamada, Takamine, Yap and Hakoda  
Managers on the part of the House

Conf. Com. Rep. No. 13-76 on H.B. No. 2135-76

The purpose of this bill is to amend certain sections of the Hawaii Revised Statutes relating to election laws and procedures. The effect of this bill is to provide amendments made necessary by recent changes in federal laws and State laws and to implement methods and procedures which would result in an improved election administration.

Accordingly, this bill provides as follows:

1. Amend Sections 11-11 and 11-12, Hawaii Revised Statutes, to provide that a person who shall have attained the age of eighteen at the time of the election is eligible to vote in that election.
2. Amend Section 11-14, Hawaii Revised Statutes, to provide that the register shall contain the name, address, and primary ballot selection data essential for election purposes. Additional information required by Section 11-15, Hawaii Revised Statutes, may be included in the register at the discretion of the clerk.
3. Amend Section 11-15, Hawaii Revised Statutes, to delete age and place of current employment from the registration affidavit and to include the mailing address as part of the residence data.
4. Amend Section 11-12, Hawaii Revised Statutes, to exempt absentee voters from the



provision relating to removal from register upon failure to vote.

5. Amend Section 11-24, Hawaii Revised Statutes, to change the closing date of registration for the general election from 26 days to 30 days prior to the general election.

6. Amend Section 11-95, Hawaii Revised Statutes, to add a provision stating that there shall not be any rescheduling of normal hours as a penalty to employees who vote.

7. Amend Section 11-115, Hawaii Revised Statutes, to reword for consistency and clarity.

8. Amend Section 11-119, Hawaii Revised Statutes, to add a provision for determining type style and size to be used in the printing of ballots. It is noted that information relating to the section has been obtained from Section 11-112, Hawaii Revised Statutes.

9. Amend Section 11-184, Hawaii Revised Statutes, to clarify the separate and combined responsibilities of the State and counties for election expenses.

10. Amend Section 12-6, Hawaii Revised Statutes, to reword for consistency and to add a provision for filing procedures to be followed by an indigent candidate.

11. Amend Section 13-4, Hawaii Revised Statutes, to provide for the alphabetical listing of candidates for the board of education in the general election.

12. Amend Section 15-1, Hawaii Revised Statutes to define "absentee polling place" and change all references to "absentee precinct" to read "absentee polling place".

13. Amend Section 19-6, Hawaii Revised Statutes, to reword for clarity.

Your Committee upon further consideration has made an amendment to H.B. No. 2135-76, H.D. 1, S.D. 1 to delete the proposed change to Section 12-2, Hawaii Revised Statutes which would change the primary election date to the last Saturday of September in every even numbered year.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2135-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2135-76, H.D. 1, S.D. 1, C.D. 1.

Senators Nishimura, George and O'Connor  
Managers on the part of the Senate

Representatives Roehrig, Cobb, Lee, Santos and Uechi  
Managers on the part of the House

Conf. Com. Rep. No. 14-76 on H.B. No. 2678-76

The purpose of this bill is to require insurers to use the age of the insured at the last birthday in determining a life insurance premium based on age.

Present law is silent on the matter covered by this bill and the industry practice is to use either a person's nearest birthday or last birthday in determining age for the purpose of determining life insurance premiums based on age. Under the nearest birthday method, an applicant who became 25 years old on January 1, 1976 would have his premium rate based on age 25 during the period July 1, 1975 through June 30, 1976, and on age 26 during the period July 1, 1976, through June 30, 1977. Under the last birthday method this applicant's insurance age would follow his actual age - 25 in 1976 and 26 in 1977.

In order to avoid confusion on the part of insureds, this bill requires the use of one method, i.e., the last birthday method.

Your Committee upon further consideration, has made the following amendments to H.B. No. 2678-76, H.D. 1, S.D. 1:

(1) Deleted the reference to the age of a person other than the insured in determining life insurance premiums because there appears to be no reason for such reference.

(2) Changed the effective date of the bill from upon approval to January 1, 1977 to afford the insurance industry time to conform their practices to the requirements of this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2678-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading

in the form attached hereto as H.B. No. 2678-76, H.D. 1, S.D. 1, C.D. 1.

Senators Nishimura, O'Connor and George  
Managers on the part of the Senate

Representatives Yamada, Lee, Yap and Sutton  
Managers on the part of the House

Conf. Com. Rep. No. 15-76 on H.B. No. 2894-76

The purpose of this bill is to improve the laws relating to condominiums to afford greater protection to purchasers and owners of condominium units.

This bill changes the condominium laws to:

- (1) Allow condominium owners to transfer parking stalls among owners.
- (2) Allow the prevailing party in any action brought by an association of apartment owners against an apartment owner to recover all costs and expenses, including reasonable attorney's fees.
- (3) Require a developer of a condominium project to provide in writing, certain information to each prospective initial purchaser, including a breakdown of the annual maintenance fees, and a description of all warranties for the individual apartments and the common elements.
- (4) Allow the apportionment of charges and distribution of common profits in a mixed use project containing apartments for both residential and commercial use, in any fair and equitable manner as set forth in the declaration.
- (5) Allow vendees under an agreement of sale to be members of the board of directors.
- (6) Prohibit a resident manager from serving on the board of directors.
- (7) Require the board of directors to meet at least once a year.
- (8) Require notices of association meetings to be sent to each member of the association at least fourteen days prior to the meetings.
- (9) Provide that proxies for meetings shall be valid only for the meeting for which the proxy is sent.
- (10) Require the resident manager, or managing agent, or board of directors to keep an accurate and current list of members of the association of apartment owners.
- (11) Require association and board of directors meetings to be conducted in accordance with Roberts Rules of Order, or other accepted rules for the conduct of meetings.
- (12) Allow members of the association of apartment owners to require a yearly audit of the association books by a certified public accountant.
- (13) Require that the meetings of the association be held at the condominium project, or elsewhere within the State as determined by the board of directors.

Your Committee is in agreement that the changes to the law proposed by this bill will be to the benefit of prospective purchasers and owners of condominium apartments. It is your Committee's understanding that the changes to the requirements of the by-laws of any association of apartment owners will operate prospectively, although there is no reason why associations existing on the effective date of this bill cannot amend its by-laws to conform to the requirements provided for in this bill.

Upon further consideration, your Committee has amended H.B. No. 2894-76, H.D. 1, S.D. 3, by deleting the proposed amendment which would allow changes to the by-laws of an association of apartment owners by a vote of two-thirds of the apartment owners of a project. The bill, as amended, retains the present requirement of a seventy-five per cent vote to modify or amend the by-laws.

Your Committee is in accord with the intent and purpose of H.B. No. 2894-76, H.D. 1, S.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2894-76, H.D. 1, S.D. 3, C.D. 1.

Senators Nishimura, O'Connor, Young and George  
Managers on the part of the Senate

Representatives Yamada, Stanley, Yap and Sutton  
Managers on the Part of the House

Conf. Com. Rep. No. 16-76 on H.B. No. 2131-76

The purpose of this bill is to allow property owners to have unattended vehicles towed away at the expense of the vehicle owner and to set maximum charges for such towing procedures. The effect of this bill is to protect the rights of property owners from the inconsiderate and occasionally intentional practices of those motor vehicle operators who park in unauthorized areas.

Under this bill, notwithstanding any other provision in Section 290-11, Hawaii Revised Statutes, any vehicle left unattended for more than twenty-four hours on private property without authorization of the owner or occupant of the property, in any county with a population of less than one hundred thousand persons, may be towed away at the expense of the owner of the vehicle. However, in a county with a population of more than one hundred thousand persons, an unattended vehicle may be towed away for any amount of time it is left unattended on private property.

Your Committee has also determined that a notice prohibiting vehicles to park on the property without authorization shall be posted and has established maximum charges for the towing procedure and storage of such vehicles.

Your Committee upon further consideration has made the following amendments to H.B. No. 2131-76, H.D. 1, S.D. 1:

- (1) The proposed new section entitled "Criminal trespass" has been deleted.
- (2) The proposed severability clause has been deleted.
- (3) A provision has been added to enable each county to enact additional restrictions to this section or criminal sections in this area as required.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2131-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2131-76, H.D. 1, S.D. 1, C.D. 1.

Senators Nishimura, O'Connor and Leopold  
Managers on the part of the Senate

Representatives Roehrig, Cayetano, Takamine and Sutton  
Managers on the part of the House

Conf. Com. Rep. No. 17-76 on S.B. No. 2467-76

The purpose of this bill is to encourage the conservation of energy by providing tax incentives for energy conservation.

Under this bill, a real property tax exemption is provided for all property in the State actually used for an alternate energy improvement. Application for the tax exemption provided by this bill shall be made with the director of taxation.

Your Committee upon further consideration has made the following amendments to S.B. No. 2467-76, S.D. 1, H.D. 2:

- (1) Placed a 5-year property tax exemption limitation beginning after June 30, 1976 and ending on December 31, 1981;
- (2) Delineated some of the alternate energy sources and processes included in the provisions of this bill; and
- (3) Specifically excluded nuclear fission from the provisions of this bill because of its potential danger.

Your Committee has further amended S.B. No. 2467-76, S.D. 1, H.D. 2, by adding a new section to provide an additional tax incentive. The bill would allow an income tax credit for individual and corporate resident taxpayers for 10 per cent of the cost of

a solar energy device. The tax credit is to be claimed against the net income tax liability for the year in which the solar energy device was installed provided the solar energy device was erected and placed in service after December 31, 1974 but before December 31, 1981. The bill further provides that if the credit exceeds the liability, the excess may be applied to the taxpayer's liabilities for subsequent years until exhausted.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2467-76, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2467-76, S.D. 1, H.D. 2, C.D. 1.

Senators Yim, King and George  
Managers on the part of the Senate

Representatives Cayetano, Blair, Cobb, Kiyabu, Takamura, Evans and Larsen  
Managers on the part of the House

(Majority) Conf. Com. Rep. No. 18-76 on S.B. No. 2139-76

The purpose of this bill is to establish an interim tourism policy to furnish guidance for the orderly and planned growth of tourism for the benefit of the State, its residents and its visitors. The policy is to serve during the interim period required for preparation of the ten-year Controlled Growth Policy Plan for Tourism. The interim tourism policy would be replaced by the policies of the State Plan upon its approval by the Legislature.

Your Committee finds that there is urgent need for adoption of the interim tourism policy in order to (1) provide an optimum of satisfaction and high quality service to tourists, (2) protect the natural beauty of Hawaii, (3) preserve and enrich the understanding, by visitors and residents alike, of our native Hawaiian heritage, as well as the cultural and social contributions to Hawaii of all its ethnic groups and people, (4) sustain the economic health of the visitor industry to the extent that such economic health is compatible with the policy's objectives, and (5) achieve consistency in the innumerable planning and development decisions which will be made by the public and private sectors during the development of the ten-year master plan for the growth of tourism and thereafter.

Your Committee believes that the adoption of the interim tourism policy is necessary because the Hawaii visitor industry is a major component of the economic base of the State, replacing agriculture and defense as the leading growth industry. Since the visitor industry makes a highly significant contribution to the income and employment within our community and causes widespread effects on all public and private aspects of life in the State, declining or undesirable growth of the visitor industry could be detrimental to the quality of life and well-being of our residents. In that regard, your Committee feels that the interim tourism policy will furnish needed guidance to both the visitor industry and the community-at-large.

Your Committee feels very strongly that the needs and life-styles of Hawaii's residents should receive primary consideration whenever the needs of the visitor industry impinge upon the local residents' sector. Accordingly, this bill emphasizes resident preference in the implementation of the interim tourism policy.

After careful consideration, your Committee has amended the bill by not consolidating all tourism matters under a single new chapter 203 and by deleting all references to the establishment of a tourism coordinator as provided in the house draft. Your Committee made these amendments as a result of the Attorney General's opinions regarding the restrictiveness of the bill's title.

Your Committee has further amended the bill to include a subsection which sets forth some of the primary concerns in the future development and expansion of tourism in Hawaii, such as the continuous monitoring of the social costs of growth, the need for tax revenues, and the direction and quality of the State's tourism promotional efforts.

Your Committee feels that the State, as a matter of policy, should provide adequate opportunities for county participation and private citizens' involvement, as well as visitor industry input, in the decision-making process of tourism planning and policy formulation, and therefore, has amended the bill to create an Interim Tourism Advisory Council.

Your Conference Committee is in accord with the intent and purpose of S.B. No. 2139-76, S.D. 1 H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2139-76, S.D. 1, H.D. 1, C.D. 1.

Senators F. Wong, Toyofuku, Henderson and R. Wong  
Managers on the part of the Senate

Senator R. Wong did not concur on 7-C.

Representatives Machida, Morioka, Lunasco, Kawakami, Inaba, Ikeda and Medeiros  
Managers on the part of the House

Conf. Com. Rep. No. 19-76 on H.B. No. 2371-76

The purpose of this Act is to grant to minors who are or who have been married all the rights, duties, privileges and responsibilities provided under our civil law to a person who has reached the age of majority.

Your Committee feels that for married minors, the strict requirement of attaining the age of 18 works unnecessary hardship and impedes the minor in assuming the responsibilities inherent in his position. So long as the State permits minors to marry and establish their own households as adults, your Committee believes the State has a duty to extend to them the rights necessary to function effectively as adults in this society. Your Committee therefore recommends that married minors be granted the civil rights of adults, apart from drinking and voting, automatically upon marriage.

Your Committee upon further consideration has decided to accept the Senate amendment deleting the reference to Section 571-11(2)(A) and (B) in Subsection (2) of H.B. No. 2371-76, H.D. 1. Due to the passage of S.B. No. 2527-76, S.D. 1, RELATING TO THE FAMILY COURTS, which proposes numerous changes to the Family Court law, it was felt that references to the above-mentioned Subsections (A) and (B) should be omitted.

Your Committee has made minor grammatical amendments to this Act.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2371-76, H.D. 1, S.D. 1 as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2371-76, H.D. 1, S.D. 1, C.D. 1.

Senators Nishimura, Chong and Saiki  
Managers on the part of the Senate

Representatives Takamura, Roehrig, Cayetano and Medeiros  
Managers on the part of the House

Conf. Com. Rep. No. 20-76 on S.B. No. 1577

The purpose of this bill is to amend Section 171-36, Hawaii Revised Statutes, by clarifying the existing language of the law with respect to the powers of the Board of Land and Natural Resources to grant extensions during the term of a lease.

The existing law was amended to limit this power to only intensive agricultural or special livestock leases and, in addition, said amendment broadened the list of financial agencies to the extent necessary to qualify the lease for mortgage lending. Said bill also conditions the approval of any extension as enumerated. The fourth condition indicated relating to rules and regulations of the Board is intended to authorize the Board to impose any additional terms and conditions; i.e., that a loan will be used for capital improvements and not any unrelated purposes, nor that such a loan be used merely for the purpose of refinancing. This bill also eliminates for purposes of clarity the reference to macadamia nut orchard lease in Section 171-36(2), Hawaii Revised Statutes, which states that macadamia nut orchard lease shall not exceed forty-five years. There is a specific reference to an intensive agricultural use and is covered in Section 171-37, Hawaii Revised Statutes, as amended by Act 68, Session Laws of Hawaii 1973, in which "macadamia nut orchard" was changed to "tree crop orchard". This bill itself clearly states that it may be applied retrospectively to existing leases. Other than the foregoing, there has been some minor changes in the style or format of the existing law.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1577, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1577, S.D. 1, H.D. 2, C.D. 1.

Senators Nishimura, F. Wong, Taira, Hara, Takitani, George and Saiki  
Managers on the part of the Senate

Representatives Uechi, Kawakami, Ho, Lum and Abercrombie  
Managers on the part of the House

Conf. Com. Rep. No. 21-76 on S.B. No. 2958-76

The purpose of this bill is to clarify the right of recovery of an injured person where there are two or more defendants under the existing comparative negligence law.

Under the existing law an injured person's contributory negligence does not bar his right to recovery of damages against the wrongdoer unless the injured person's negligence is greater than the negligence of the wrongdoer.

An ambiguity exists under the existing law where there are two or more defendants, whose aggregate degree of negligence expressed as a percentage is more than the degree of negligence of the injured person expressed as a percentage, but separately is less. For example, if the injured person's degree of negligence was 40 per cent and if there were two defendants, each of whose degree of negligence was 30 per cent (or 60 per cent aggregate), a question arises as to whether the injured person may recover under the existing law.

Your Committee feels that where there are two or more defendants, the degree of negligence of the injured person expressed as a percentage should be compared against the aggregate negligence of the defendants expressed as a percentage rather than against each one of them individually. Your Committee finds that this is the most fair and equitable portion.

Your Committee upon further consideration recommends that this bill be amended by deleting Section 1 and amending Section 2 of the bill. Section 663-31, Hawaii Revised Statutes, is amended as follows:

1. Add the following words, "or in the case of more than one person, the aggregate negligence of such persons" after the word "person" in line 1 on page 2.
2. Add the words "or in the case of more than one person, the aggregate negligence of such persons" after the word "person" in line 19 on page 2.
3. Add a new subsection (d) to read as follows: "(d) The court shall instruct the jury regarding the law of comparative negligence where appropriate."

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2958-76, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2958-76, S.D. 1, H.D. 1, C.D. 1.

Senators Nishimura, O'Connor and Saiki  
Managers on the part of the Senate

Representatives Roehrig, Takamine and Fong  
Managers on the part of the House

Conf. Com. Rep. No. 22-76 on S.B. No. 2294-76

The purpose of this bill is to ensure greater public participation in health planning and to provide a permanent vehicle for citizen input into the health planning process, so that the health services plan of the State will be based on informed decision-making. To achieve this purpose, sub-area planning councils are established.

In 1975, the Legislature enacted the Health Resources and Development Act in accordance with federal law to develop a health planning system. The intent of the law was to ensure the greatest amount of public participation in health planning. To do this, a system in which local planning agencies would be responsible for developing health plans in designated areas was established. The local agency health plans would serve as the statewide guide for the development of health services.

Because of its particular geographic and population characteristics, Hawaii was exempted under the federal law from forming local health planning agencies and the state planning agency was designated the agency responsible for health planning. As a result, Hawaii had one agency for health planning.

Your Committee feels that, with the designation of the state agency as the planning agency, public participation in health planning has been limited. Your Committee, therefore, feels that a mechanism should be established to increase such participation.

Your Committee further feels that any system created for public participation in health planning should be in consonance with the present health planning procedure established

under Public Law 93-641. The bill adds a new part to chapter 323D, Hawaii Revised Statutes, the state enabling health planning legislation responding to public Law 93-641, the National Health Planning and Resources Development Act.

Your Committee also finds that within fiscal constraints and with the intent of subdividing the State into districts of equal population or geographical configuration, the number of sub-area councils to be established should provide for the greatest amount of local area participation. Further, where necessary, additional sub-area councils may be established.

With respect to Sec. 3230-13 and the new section added for appointments to the statewide health coordinating council. The appointment of one person from the sub-area councils to the statewide health coordinating council is not intended to limit the governor's authority to appoint other members to the statewide health coordinating council who may also serve on sub-area councils. Such dual membership may occur provided membership of the statewide health coordinating council meets federal requirements.

Your Committee generally agrees with this bill but has made the following amendments:

1. Housekeeping:
  - a. The terms "state agency" and "statewide council" as defined by Sec. 323D-2 have been inserted where appropriate.
  - b. "Nominate" on page 3, line 19 has been changed to "recommend".
  - c. On page 4, line 9, the following sentence has been added: "If any recommendation of any subarea health planning council is not incorporated into a health systems plan, an explanation stating the reasons for non-incorporation shall be appended to that plan."

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2294-76, S.D. 2, H.D. 2, as amended herein and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2294-76, S.D. 2, H.D. 2, C.D. 1.

Senators Chong, R. Wong and Henderson  
Managers on the part of the Senate

Representatives Segawa, Mizuguchi, Stanley, Yuen, Clarke and Santos  
Managers on the part of the House

Conf. Com. Rep. No. 23-76 on H.B. No. 3248-76

The purpose of this bill is to promote an effective developmental disabilities program by placing the developmental disabilities council within the Department of Budget and Finance; by restating the definition of "developmental disability"; and by clarifying the responsibilities of the council.

Act 198, Session Laws of Hawaii 1975, established the developmental disabilities council in the office of the governor. The purpose of placing the council in that office was to provide impetus for greater action and program development of services for the developmentally disabled. One of the tasks of the council was to design a developmental disabilities plan which would integrate the activities of the various agencies and align them with the purpose of the program. The council submitted a document entitled, "A Plan for services for the Developmentally Disabled 1976-1980", which provides the framework and direction for a statewide developmental disabilities program.

With the submission of the plan, the developmental disabilities program enters a new phase. The purpose of the council will now shift from research and development to one of advocacy and monitoring of the recommendations set forth in the plan. Since the major portion of the direct services program is administered by the department of health and the fact that the department does have the fiscal, personnel, and technical services necessary to carry out the functions of the program, your Committee feels that the council should be in a position to have direct communication with personnel involved in program implementation.

Your Committee on Conference has therefor amended this bill by transferring the developmental disabilities council to the Department of Health for administrative purposes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3248-76.

H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3248-76, H.D. 1, S.D. 1, C.D. 1.

Senators Chong, Nishimura and Saiki  
Managers on the part of the Senate

Representatives Segawa, Machida, Stanley and Santos  
Managers on the part of the House

Conf. Com. Rep. No. 24-76 on S.B. No. 79

The purpose of this bill is to enact into law the Uniform Probate Code with appropriate amendments, additions, and deletions.

Your Committee believes that this bill, as amended, substantially improves existing Hawaii law in the fields of wills, trusts, probate, guardians, and multiple-party bank accounts. The bill is the product of an intensive session-long review by legislators, trustees, bankers, judges, and attorneys.

Your Committee has reviewed at great length the informal probate procedures of H.D. 1. Your Committee has been assisted in this review by judges, probate lawyers, and professional fiduciaries. The sole focus of your Committee's deliberations in this area has been to simplify, lower the cost of, and expedite the handling of informal probates.

Your Committee has been advised that approximately 50 per cent of the probates in the first circuit court over the past two years have involved estates with a value of \$20,000 or less. This is not surprising since assets held as joint tenants or as tenants by the entirety are not subject to probate. Thus, by permitting informal proceedings for estates of \$25,000 or less, H.D. 1 would permit such procedures to be maintained for well over one-half the probates in the State. Nonetheless, your Committee recommends that the maximum value for an estate eligible for informal proceedings be increased to \$30,000 (which is one-half the amount which passes free of federal estate tax) so as to increase the number of estates eligible for informal proceedings.

Your Committee has made numerous other refinements to the informal probate procedures contained in H.D. 1. Amongst the most significant of such changes are: (i) requiring the courts to print standard forms which may be used by laymen so that attorneys are not required in informal proceedings (section 3-110); (ii) permitting the court to designate a clerk of the court to serve as the registrar (section 1-201(41)); (iii) permitting the informally appointed personal representative to file his inventory at the closing of the estate, thereby reducing the number of separate filings with the registrar (section 3-706); (iv) permitting the informally appointed personal representative to make final distribution prior to closing (section 3-704); (v) reducing the time permitted for informal probates from two years to one (section 3-1003); and (vi) making clear that an interested person may not compel a transfer from informal to supervised proceedings without good cause (sections 3-502 and 3-1001).

Your Committee has heard testimony to the effect that such steps could lower fees paid to personal representatives and attorneys (if any) by as much as 50 per cent. In addition, newspaper publication in an informal proceeding would only occur upon the filing of the application, whereas present law requires publication thrice: at filing, to notify creditors, and at closing.

Your Committee has also made numerous amendments to Article VII. This Article contains significant new law relating to trusts. It clearly sets forth the jurisdiction of the courts over trustees. Your Committee's draft restricts but does not prevent a beneficiary from seeking removal of a trust (section 3-305), and makes clear the court's power to review the reasonableness of the trustee's compensation for special services upon petition of a beneficiary (section 3-205).

So that all the amendments to S.B. No. 79 made by the Legislature, together with the reasons therefor, are readily available, your Committee has compiled herein all such information. The specific amendments, other than those of a grammatical nature, to the various sections of S.B. No. 79 are as follows:

1. Change: The title of the chapter has been redesignated as the Uniform Probate Code rather than the Hawaii Probate Code.

Reason: H.D. 1 does not depart as markedly from the Uniform Probate Code as may appear at first glance, and your Committee's draft departs even less so. Your



Committee heard testimony that it would be a "disservice" for it to call its draft anything other than the Uniform Probate Code. Accordingly, your Committee has retitled the chapter as the Uniform Probate Code, which is the title carried by S.B. No. 79.

2. Change: Section 1-106 is amended to extend the period within which a proceeding must be commenced after discovery of a fraud from 2 years to 6 years.

Reason: Six years is the general statute of limitations in Hawaii (sec. 657-1, Hawaii Revised Statutes), and your Committee sees no reason to accord a shorter statute to perpetrators of a fraud. Also, section 657-20, Hawaii Revised Statutes, establishes a six year statute of limitations on actions involving fraudulent concealment.

3. Change: Section 1-108 is amended to specifically provide that the settlor of an inter vivos revocable trust may excuse the trustee from its duty to register or account to beneficiaries.

Reason: The comment to the Uniform Probate Code provides that this is the effect of this section, but your Committee seeks to clarify this. It is your Committee's intent that, upon the death of the settlor, the trust would have to be registered. Your Committee seeks to accommodate the interests of the settlor in preserving privacy during his life and the interests of the beneficiaries in being fully informed after the settlor's death.

4. Change: Section 1-201 is amended in numerous small respects by adding definitions, renumbering the paragraphs, etc.

Reason: Your Committee believes that the amendments add clarity and organization to this section which defines terms used throughout the Code.

5. Change: Section 1-201(5) is amended by making reference to the circuit court.

Reason: The change is recommended by the Judicial Council. In its official text the Uniform Probate Code contemplates the creation of a probate court with limited jurisdiction. Under the Hawaii judicial system all matters relating to trusts and the estates of decedents are within the jurisdiction of the circuit courts.

6. Change: Section 1-201(28) is amended by substituting "eighteen years of age" for "the age of majority".

Reason: While the term "age of majority" is found in other sections of the Hawaii Revised Statutes, there appears to be no statutory definition of the term. To avoid any question "eighteen years of age" has been substituted.

7. Change: Section 1-201(37) is amended to refer to civil actions.

Reason: The change is recommended by the Judicial Council in view of the fact that the distinction between law and equity has been abolished in Hawaii.

8. Change: Section 1-201(41) is amended to refer to an appointee of the court serving as the registrar.

Reason: Your Committee seeks to make clear that a clerk of the court may serve as the registrar.

9. Change: Section 1-202(a) is amended to provide that a proceeding under the Uniform Probate Code may be brought in any circuit.

Reason: Your Committee feels that according exclusive jurisdiction to the first court in which a proceeding is commenced may be inconvenient where the interested persons and property of the decedent are located on different islands.

10. Change: Section 1-302 is deleted.

Reason: The deletion of this section is recommended by the Judicial Council. The original text of the Uniform Probate Code contemplates a probate court of limited jurisdiction as defined in this section. The jurisdiction of the circuit court is defined in section 603-21.6, Hawaii Revised Statutes, which is amended by section 8-104 of S.B. No. 79 to conform the terminology to that of the Uniform Probate Code.

11. Change: Section 1-304 is deleted.

Reason: The Judicial Council recommends the deletion of this section upon the ground that Article V, Section 6, of the Hawaii Constitution gives the Hawaii Supreme Court exclusive power to promulgate rules in all civil actions and that the legislature is without power to direct the application of the rules promulgated by the court.

12. Change: Section 1-308 is deleted.

Reason: The Judicial Council recommends the deletion of this section for the reasons mentioned under section 1-304.

13. Change: Section 1-309 is deleted.

Reason: The Judicial Council recommends the deletion of this section in view of the fact that "the court" referred to in S.B. No. 79 is a division of the circuit court.

14. Change: Section 1-401 is amended by including informal applications within its purview, by deleting the reference to a hearing in the second line, by tightening the standards for mailed notice and by making reference to personal service.

Reason: Your Committee's draft requires notice in informal proceedings, thereby making mandatory the reference to applications which are used in such proceedings. Your Committee's draft requires notice in situations wherein no hearing is required (e.g., opening and closing an informal probate), hence the reference to a hearing is inappropriate. Your Committee doubts that ordinary first class mail is a good method of effective delivery and therefore deleted the reference to such. Rule 5 of the Hawaii Rules of Civil Procedure deals with service, and your Committee intends to incorporate the provisions thereof by specific reference to service, which service for purposes of this bill may but is not required to be made by the sheriff of the State.

15. Change: Section 2-102 dealing with the surviving spouse's share in the case of intestacy is amended in numerous respects.

Reason: The amendments conform more closely to existing Hawaii law found in section 532-4, Hawaii Revised Statutes, which existing law your Committee believes more adequately reflects the desires of persons dying without wills.

16. Comment: Your Committee has been questioned why a surviving spouse should be entitled to one-half of the estate if the decedent left no will (section 2-102) and only one-third of the estate if the decedent left a will disinheriting the survivor (section 2-201). There is logic to the distinction, for in the former case there is no indication that the decedent sought to disinherit the survivor, while in the latter case such was apparently the decedent's intent and the surviving spouse is being permitted to take against the decedent's estate plan. Note that a surviving spouse who married the decedent after he prepared a will takes her one-half intestate share under section 2-301 unless it appears that the decedent intended that the spouse be disinherited, in which case the surviving spouse is limited to asserting her elective share.

17. Change: Section 2-103 dealing with the share of other than the surviving spouse in the case of intestacy is amended in numerous respects.

Reason: The amendments conform more closely to existing Hawaii law, which existing law your Committee believes more adequately reflects the desires of persons dying without wills. Specifically, your Committee's language retains the existing Hawaii law providing that, where the estate of an intestate decedent without surviving spouse, issue or parents has come by inheritance through one side of the family, that side takes to the exclusion of the other side unless application of this rule would result in an escheat to the State. The reference to representation in paragraph (3) is recommended by the Judicial Council.

18. Change: Section 2-104 is deleted.

Reason: Your Committee believes that deeming that one who dies within 120 hours after the death of the intestate died before the intestate for purposes of intestate succession, etc., is unnecessary and confusing. Any such legislation should be studied in concert with chapter 584, Hawaii Revised Statutes, the Uniform Simultaneous Death Act, and should be enacted only if such study demonstrates a real need therefor.

19. Change: Section 2-107 has been amended to exclude relatives of the half-blood from taking property from ancestors with whom they have no blood relationship.

Reason: The amendment conforms to section 532-8, Hawaii Revised Statutes, which your Committee feels to be the more likely desire of most families.

20. Change: Section 2-109 has been amended to conform to chapter 584, Hawaii Revised Statutes, the Uniform Parentage Act.

Reason: The amendment insures that no conflict exists between the Uniform Probate Code and other Hawaii laws relating to the relationship of parent and child.

21. Change: Section 2-113 is deleted.

Reason: This section would abolish the estates of dower and curtesy. In view of the fact that estates of dower or curtesy may exist, not yet admeasured, on the effective date of the Uniform Probate Code, it is felt that it is inappropriate to abolish the estates entirely. By virtue of amendments of the appropriate provisions of the Hawaii Revised Statutes made by section 8-102 of S.B. No. 79, no new estates of dower or curtesy in property of decedents dying after the effective date of Articles II, III, and IV of the Uniform Probate Code may come into existence except where inchoate dower exists on such effective date.

22. Change: A new section numbered 2-114 is added which deals with the situation which may occur if a person is related to an intestate through two lines, in which event he would take only under the line which entitles him to the larger share.

Reason: The amendment is recommended by the Editorial Board of the Uniform Probate Code to resolve an ambiguous area of the Uniform Probate Code as originally promulgated.

23. Change: Section 2-201(a) is amended by deleting the reference to the augmented estate.

Reason: Your Committee prefers the existing practice of according the surviving spouse protection against disinheritance by permitting him or her to claim only against the decedent's probate estate.

24. Change: Section 2-202 is amended by deleting the reference to the augmented estate.

Reason: See the discussion of section 2-201(a) above.

25. Change: Section 2-205 is amended to delete the reference to the augmented estate and by clarifying the procedures for making an election.

Reason: See the discussion of section 2-201(a) above. The period for filing the election is redefined in accordance with the recommendation of the Editorial Board of the Uniform Probate Code ("Editorial Board").

26. Change: Section 2-206 is amended as recommended by the Editorial Board.

Reason: The amendment is for the purpose of clarification, and entitles the surviving spouse to homestead allowance, exempt property and family allowance irrespective of any renunciation of other benefits.

27. Change: Section 2-207 is amended.

Reason: The amendment is to conform to the elimination of the augmented estate.

28. Change: The amount of exempt property in section 2-402 is increased from \$3,500 to \$5,000, and reference is made to the fact that such property must be taken in kind.

Reason: Your Committee felt that a \$3,500 limit on exempt property was unreasonably low in this State. At the same time, since the traditional purpose of exempting certain types of property was to insure that all the personal possessions of the decedent were not consumed in paying debts, your Committee seeks to implement this purpose by specifying that exempt property be taken in kind.

29. Change: Sections 2-403 and 2-404 are amended to make clear that the maximum family allowance is \$6,000.

Reason: Since the family allowance, like the homestead allowance and exempt property, has priority over claims, your Committee thinks it advisable that a ceiling

on the amount of the allowance be set. The \$6,000 figure is that which the Uniform Probate Code recommends.

30. Change: Sections 2-501 and 2-504 are amended by substituting "eighteen or more years of age" for "the age of majority".

Reason: See discussion of section 1-201(28) above.

31. Change: Sections 2-502 and 2-513 are amended by deleting the reference to holographic wills.

Reason: See discussion of section 2-503 below.

32. Change: Section 2-503 is deleted.

Reason: Your Committee prefers the present Hawaii law which requires two witnesses for a document to serve as a will.

33. Change: Section 2-504 is amended to accord parity of treatment between a self-proved will from another state and a self-proved will from Hawaii. The form for self-proving must be exactly in the statutory form, not substantially as provided in the Uniform Probate Code.

Reason: Equating the treatment between in and out-of-state self-proved wills is recommended by the Editorial Board of the Uniform Probate Code. Your Committee has declined to adopt a further recommendation of the Editorial Board to the effect that witnesses to a self-proved will would not have to sign once as witnesses and a second time for the sake of the notarial certificate. Your Committee sees no great hardship in requiring two signings and, in fact, feels that the second signing before a notary adds desirable solemnity to the occasion. Your Committee further believes that requiring the form for self-proving of wills to be exactly rather than substantially as prescribed by statute will avoid unnecessary questions about what constitutes "substantial" compliance.

34. Change: Section 2-506 is amended by deleting a reference to section 2-503.

Reason: Section 2-503 is deleted.

35. Change: Section 2-507 is amended by permitting the partial revocation of a will only by a writing.

Reason: The Uniform Probate Code permits partial revocation by burning, tearing, cancelling, obliterating or destroying. Your Committee feels that too many factual questions would be raised if a physical act on the will were permitted to effect a partial revocation thereof.

36. Change: Section 2-509(a) is amended by adopting the present Hawaii law found in section 536-10, Hawaii Revised Statutes, to the effect that the destruction of a second will which revoked a prior will does not revive the prior will unless it is re-executed with testamentary formalities.

Reason: Your Committee believes that the certainty of the existing Hawaii law is preferable over the evidentiary problems which may arise under the Uniform Probate Code's language. An example is this: testator executes a will, thereafter executes a codicil affecting one paragraph of the will, and later destroys the codicil. Under the Uniform Probate Code language, the relevant paragraph of the first will is revived if there is evidence that such was the testator's intention. Under your Committee's language, the relevant paragraph is revived only by a writing signed by the testator and two witnesses under section 2-502.

37. Change: Section 2-513 is amended by restricting the situations in which a testator may dispose of tangible personalty without testamentary formalities.

Reason: Your Committee's draft permits the testator to make changes to a list bequeathing tangible personalty so long as the list meets the standards for incorporation by reference and so long as the changes to the list after execution of the will are in the testator's handwriting and are signed by him.

38. Change: Section 2-601 is deleted.

Reason: This deletion conforms with the deletion of section 2-104. Your Committee

feels even more strongly concerning the 120-hour provision in this instance than in the the case of section 2-104, for if the decedent desired any such result he would have so provided in his will. Proposing such a result by legislation may have the unintended effect of distorting a decedent's death tax planning by denying him a marital deduction.

39. Change: Section 2-602 is deleted.

Reason: Your Committee is disinclined to have our courts bound by the testator's choice of law for the simple reason that your Committee does not know the laws of the other 49 states relating to testamentary dispositions and does not want to bind our courts to laws of which it has no knowledge.

40. Change: Section 2-605 is amended by deleting the reference to 120 hours.

Reason: The deletion conforms to the deletion of sections 2-104 and 2-601.

41. Change: Section 2-608 is amended by rearranging its subsections.

Reason: This amendment is recommended by the Editorial Board to clarify ambiguities in the Uniform Probate Code as originally promulgated.

42. Change: Section 2-611 is amended by making specific reference to the sections which deal with half-bloods, illegitimates, and adopted persons, and by deleting the last sentence.

Reason: Your Committee feels that the addition of the specific sections clarifies the intent of the section. The deletion is to avoid overlap with chapter 584, Hawaii Revised Statutes, the Uniform Parentage Act.

43. Change: Section 2-801 is amended in numerous technical aspects.

Reason: The amendments are recommended by the Editorial Board of the Uniform Probate Code for the sake of clarity.

44. Change: Section 2-803 is amended to make specific reference to those sections of the Penal Code which, if violated, would cause a person to lose benefits flowing to him on account of the decedent's death.

Reason: Your Committee feels that a person should not receive benefits from a decedent if he either murdered the decedent or intentionally caused the decedent to commit suicide.

45. Change: Section 2-901 is deleted.

Reason: Your Committee does not wish to burden the Judiciary with the task of being a custodian of wills.

46. Change: Section 3-102 is amended by deleting the provisions under which an unprobated will may be used as evidence of a devise.

Reason: Your Committee feels that, if a will is to be used as evidence of the passage of title, it should be subjected to judicial scrutiny and approval in a probate proceeding. See e.g., In re Kaiena's Estate, 24 Haw. 148 (1917).

47. Change: Section 3-105 is substantially amended.

Reason: The language of this section, as amended by S.D. 1, was recommended by the Judicial Council as a substitute for section 3-106, in view of the fact that the original text was designed to apply to a court of limited jurisdiction rather than to a court of general jurisdiction such as the circuit court. The substitution has been made in section 3-105, the original title of which appears to be more appropriate to the subject matter.

48. Change: Section 3-107 is amended to require that all probate proceedings be continuous actions which begin with an application (informal) or petition (supervised) for probate of a will or adjudication of an intestacy and appointment of a personal representative.

Reason: Your Committee's draft conforms with existing Hawaii law and is made necessary by your Committee's amendments elsewhere in Article III which require a probate proceeding to have both a beginning and an end.

49. Change: Your Committee's draft of section 3-108 effects many changes: first, it establishes a basic rule that, except for ancillary probates, no informal or formal proceeding to probate a will may be commenced more than 5 years after the decedent's death (see, e.g. section 531-5, Hawaii Revised Statutes); second, it establishes the following significant exceptions to and modifications of that rule: (i) a proceeding to declare an intestacy may be commenced at any time if a proceeding to probate a will was not commenced within that 5-year period; (ii) a person who was a minor during the important stages of a prior probate proceeding has one year after reaching the age of majority within which to contest (either by offering a will or by arguing for a declaration of intestacy) the prior proceeding if he stands to share in the estate if his contest is successful and if the prior probate proceeding is not res judicata as to him (see, e.g. section 531-5, Hawaii Revised Statutes); and (iii) a person who does not receive notice of a probate proceeding as required by section 1-401 has one year after learning of the prior proceeding within which to contest that proceeding if he stands to share in the estate if his contest is successful and if the prior probate proceeding is not res judicata as to him.

Reason: Your Committee is attracted to the Uniform Probate Code's attempt to add certainty to probate proceedings by setting an absolute bar to actions commenced more than a specified number of years after the decedent's death, but your Committee is reluctant to impose that bar on minors whose interests were unrepresented in the prior proceeding and on persons who had no notice of the prior proceeding. Section 3-108(c) is designed to preserve the rights of a person who has not had his day in court to have a determination of heirs for a quiet title or other proceeding. There is much land in this State as to which the title is cloudy, and your Committee intends that possible claimants not be bound by the mistakes of their ancestors who were denied the opportunity to participate in prior proceedings establishing heirship.

50. Change: A new section 3-110 has been added which instructs the registrar to prepare and make available forms for the opening and closing of informal probates.

Reason: Your Committee seeks to make the informal procedures as simple as possible. It envisions the creation and dissemination of informal probate forms bereft of legal jargon so that attorneys need not be involved in informal proceedings. Your Committee is aware of the excellent job which the Judiciary has done in implementing and publicizing the small claims procedures and your Committee is confident that a similar effort will be mounted in the informal probate field.

51. Change: Section 3-201 is amended to permit venue for the first probate proceeding to be in a circuit in which the decedent owned real property as well as in the circuit in which the decedent was domiciled.

Reason: Your Committee feels that there may be instances where a decedent lived in one circuit but had the bulk of his estate in realty in another circuit. In such cases, your Committee does not believe that probate proceedings should be required to be initiated in the circuit wherein the decedent was domiciled.

52. Change: Section 3-202 has been amended to accord Hawaii courts more discretion concerning the maintenance of proceedings here in situations involving multi-state estates.

Reason: Your Committee prefers that Hawaii courts have the opportunity to treat domicile questions in multi-state estates on a case-by-case basis rather than imposing an iron-clad rule that the first state in which probate proceedings were initiated may make a binding determination of the decedent's domicile.

53. Change: Section 3-203 is amended by (i) according children of the decedent priority for appointment as personal representatives, (ii) making clear that the court is not required to appoint as a personal representative a person nominated by persons entitled to more than one-half the estate, (iii) deleting the last sentence of paragraph (e), and (iv) adding a reference to section 3-601.

Reason: Your Committee believes that the first amendment more adequately reflects the probable desire of intestates. Your Committee's second amendment (paragraph (b)(2)) is for the sake of clarity and does not alter the effect of the original language. Your Committee's third amendment (paragraph (e)) is made necessary because your Committee's draft does not permit probate proceedings to be commenced without administration by a personal representative. Your Committee's fourth amendment (paragraph (f)) refers to the new qualification requirements for a personal representative which your Committee has inserted in section 3-601.

54. Change: Section 3-204 is amended in minor respects.

Reason: Your Committee feels that the amendments add clarity.

55. Change: Your Committee has made numerous substantive amendments to section 3-301, which amendments: (i) make clear that only estates with a value of \$30,000 or less may be informally probated, (ii) require the applicant to estimate the gross value of the decedent's estate in his application and notice, (iii) require that notice of the pendency of informal proceedings be delivered to persons likely to have an interest in the estate, (iv) identify the contents of published notice, (v) require the appointment of a personal representative, and (vi) permit the informal application to raise any issues concerning entitlement to allowances and exempt property.

Reason: The Uniform Probate Code seeks to simplify and expedite the wrapping up of the affairs of a decedent, but your Committee feels that it eliminates too many safeguards in the process. Your Committee recommends: (i) that the jurisdiction of the small estates clerk under section 531-51, et. seq., Hawaii Revised Statutes, be increased from \$3,000 to \$10,000, (ii) that informal probate be permitted only for estates with a gross value of \$30,000 or less, (iii) that informal probate proceedings require prior notice to persons likely to be affected thereby, (iv) that interested persons have the option with good cause to require that informal probate proceedings be discontinued and formal proceedings be commenced either for the duration of the probate or for the adjudication of a particular issue, (v) that informal proceedings be closed by an order of distribution, and (vi) that supervised probate proceedings under the continuous supervision of the court be required for estates with a gross value in excess of \$30,000. It should be noted that a person is not required to apply for statutory allowances or exempt property in the initial informal application, but has the option of doing so. The scope of published notice referred to in section 3-301(d) is designed to permit the personal representative to close an informally probated estate without further expensive publishing of notices (see section 3-1003(a)(5)).

56. Change: Section 3-302 is amended to make clear that a personal representative must be appointed in a probate proceeding.

Reason: This change effects your Committee's feeling that every probate proceeding must have a personal representative to administer it.

57. Change: Section 3-302 has been amended to specify with greater clarity when the register may issue a written statement admitting a will to informal probate.

Reason: Since section 1-401 requires three publications not less than one week apart, the last not less than 10 days prior to the registrar's admission of a will to informal probate, your Committee feels that it is prudent to require the registrar to withhold his statement admitting the will to probate until interested persons have a chance to respond.

58. Change: Section 3-303 is amended to conform to the revised application described in section 3-301.

Reason: The amendment is necessary in view of your Committee's changes to section 3-301.

59. Change: Section 3-306 is deleted.

Reason: Since your Committee's draft requires notice at the commencement of the proceeding, this section is superfluous.

60. Change: Section 3-307 is amended by deleting the requirement that there be a 120-hour delay after death before a probate proceeding may be commenced.

Reason: The purpose of the 120-hour delay in S.B. No. 79 was to give time for interested persons to learn of the death. Your Committee's draft handles this directly by requiring notice.

61. Change: The amendments to sections 3-308, 3-309, 3-310, and 3-311 parallel the amendments to sections 3-303, 3-305, 3-306, and 3-304, respectively.

Reason: See the reasons for the amendments to sections 3-303 through 3-306.

62. Change: Section 3-401 is amended to make clear that it applies to estates with a value of \$30,000 or less and to specify the types of orders grantable.

Reason: Part 4 has a very narrow application: it is the procedure by which disputes which arise in an informal (\$30,000 or less) probate proceeding can be resolved by a court after notice and hearing without the necessity of converting the proceeding to a supervised (Part 5) proceeding. Typical questions which might arise would concern whether or not the value of the estate is equal to or less than \$30,000, the validity of the will, the heirs of an intestate decedent, etc. Your Committee desires to make clear that the itemization of the types of orders which may be granted is not intended to be exclusive, for this section is designed to resolve any disputes which may arise in an informal probate.

63. Change: Section 3-402 is amended to identify with clarity the contents of petitions to initiate formal testacy proceedings.

Reason: Your Committee feels that the increased specificity of its draft more clearly delineates the types of proceedings maintainable under Part 4.

64. Change: Section 3-406(b) is amended by deleting the reference to a conclusive presumption.

Reason: Your Committee feels that the presumption of compliance with signature requirements should be subject to rebuttal.

65. Change: Section 3-407 is amended by making clear that the court has power to consolidate different probate proceedings concerning a decedent's estate.

Reason: Your Committee desires to make clear the court's power to consolidate all proceedings concerning a decedent's estate.

66. Change: Section 3-412 is amended to make specific reference to the time limits contained in section 3-108.

Reason: Since your Committee's draft of section 3-108 details with specificity the circumstances under which the findings in a prior probate proceeding may be altered, your Committee feels that reference to that section adds clarity.

67. Change: Section 3-502 is amended to make clear that supervised administration is required for estates over \$30,000 and by including a provision permitting the court to deny a petition for supervised administration if it determines that the best interests of the estate dictate that informal procedures be maintained.

Reason: Your Committee seeks to make clear that estates which are eligible for informal procedures can only be transferred to more costly formal procedures at the request of any interested person if good cause exists for such transfer. A personal representative, however, need not establish good cause for seeking supervised administration. See also the amendment to section 3-1003(b).

68. Change: Section 3-504 is amended by making clear that a partial distribution need not be preceded by a court order.

Reason: The change preserves existing Hawaii law and is designed to reduce costs by eliminating unnecessary court appearances. The liabilities of personal representatives and distributees for improper distribution (see sections 3-909, 3-1004, 3-1005, and 3-1006) are not affected by the amendment.

69. Change: Your Committee has made substantial amendments to section 3-601, which amendments make clear: (i) that an individual must be a resident of Hawaii in order to serve as a personal representative, (ii) that a corporation, in order to so serve, must be actually doing business in Hawaii prior to serving as a personal representative, and (iii) that, if a corporate personal representative is not a trust company or a bank, it must post a bond and satisfy the court that it will be able to effectively serve as personal representative.

Reason: A requirement of residency for an individual personal representative is a continuation of existing Hawaii law. Permitting a corporation other than a trust company or a bank to serve as a personal representative is a change in Hawaii law. Your Committee wishes to accord Hawaii residents a broader choice of corporate personal representatives. Your Committee has included safeguards to insure that the non-trust company and non-bank corporate personal representatives are capable of serving as such with minimal risk to the estate: first, the court has discretion to decline to appoint one if it does not meet certain standards, which standards are derived in part from the standards required of trust companies by chapter 406, and, second, the court must require



a bond from such corporations. Your Committee desires to make clear its legislative intent that this section does not authorize companies other than banks or trust companies to engage in the trust business, but rather only permits such other companies to serve as personal representatives under the conditions specified in the section.

70. Change: Section 3-601(c) (which contains the language found in original section 3-601), has been amended by deleting the requirement for the filing of a statement of acceptance by a personal representative who was the applicant or petitioner.

Reason: A statement of acceptance in a circumstance where an applicant or petitioner is appointed as personal representative pursuant to his application or petition is superfluous.

71. Change: Section 3-602 is amended by requiring notice of any proceeding against the personal representative to be delivered to the personal representative's attorney as well as the personal representative himself.

Reason: This conforms with existing practice of serving pleadings on the attorney.

72. Change: Section 3-603 is amended so as to make clear that a bond is required of a nonfiduciary corporate personal representative as discussed under the change to section 3-601 above, and to make clear that the court or the registrar always has discretion to require a bond. The last sentence appearing in S.B. No. 79 has been deleted.

Reason: Your Committee feels that the amendments add clarity, and the deleted sentence has no application in Hawaii.

73. Change: The language in section 3-604 is rearranged.

Reason: Since all applications and petitions require an estimate of the value of the estate, the language of S.D. 1 which suggests that such estimate may not be so included is inappropriate.

74. Change: Section 3-605 is amended to make clear that, notwithstanding demand by an interested person, the registrar or the court is not required to have a bond posted.

Reason: The Committee feels that the amendment adds clarity.

75. Change: Section 3-606(a)(1) has been amended to have the judge presiding over the probate calendar, or his successor, be named as obligee on a bond.

Reason: This conforms with existing Hawaii practice.

76. Change: Section 3-606(a)(2) is new.

Reason: This new language is designed to insure that a bond is not so worded that the surety is excused in the event that the personal representative defaults in the performance of his duties. Your Committee is aware, for instance, that some bonds now being used excuse the surety if the executor or administrator fails to timely file his accounts. Failure to file accounts is the first indication that something might be amiss, and it is totally nonsensical to permit a bond which excuses the surety from liability as soon as it appears that the risk insured against may materialize.

77. Change: Section 3-606(a)(5) makes reference to service on out-of-state sureties in the manner provided by chapter 634.

Reason: This amendment is designed to harmonize service upon sureties under the probate law with service on other nonresidents under general Hawaii law.

78. Change: Section 3-610 has been amended to provide that termination of the appointment of an informally appointed personal representative occurs in the same manner as termination for one who is formally appointed.

Reason: Your Committee's draft requires orders discharging both formally and informally appointed personal representatives, thereby negating the need to have different methods of terminating their appointments.

79. Change: "Acceptance" is substituted for "qualification" in sections 3-613 and 3-616.

Reason: A personal representative is required by section 3-601 to accept his appointment. Therefore, it makes sense that he not be treated as a personal representative

until he has done so.

80. Change: Sections 3-704, 3-711, and 3-715 are amended by making reference to section 3-504 and Hawaii Revised Statutes section 531-29.

Reason: Your Committee seeks to preserve the existing Hawaii law which requires that sales of property in probate be confirmed by the court. In addition, your Committee seeks to make clear that an informally appointed personal representative may make final distribution prior to closing.

81. Change: Section 3-705 is deleted.

Reason: Since your Committee's draft requires notice at the time of the commencement of probate proceedings, this section which requires notice after a personal representative is appointed is unnecessary.

82. Change: Section 3-706 is amended to: (i) reduce the period within which the personal representative shall file an inventory from three months to thirty days; (ii) require the personal representative to file the inventory with the court, but permit the informally appointed personal representative to so file his inventory as late as the closing of the estate; and (iii) provide for a transfer from informal to supervised proceedings in the event that the inventory reveals an estate in excess of \$30,000.

Reason: Personal representatives now have thirty days within which to file an inventory, and your Committee does not believe that such requirement is unreasonable for supervised personal representatives. Your Committee's draft requires filing the inventory with the court since (i) the court will ultimately have to issue a closing order and therefore has need to know what was in the estate, and (ii) the court needs to know in proceedings commenced informally whether or not the estate is \$30,000 or less. The provisions for transfer of a probate proceeding from an informal to a supervised proceeding are designed to accommodate the situation wherein the personal representative believes that the assets are under \$30,000 and therefore so states in his application, but discovers at the time of inventory that the value is in excess of \$30,000.

83. Change: Section 3-707 is amended to include reference to an appraiser appointed by the court.

Reason: Your Committee desires to make clear its legislative intent that said section is not intended to prevent a personal representative from hiring his own appraiser, but rather, is intended to empower the registrar or the court to appoint an appraiser if it questions the accuracy of the value attributed to an estate asset. As a practical matter, your Committee anticipates that most such court-ordered appraisals will occur when the inheritance tax unit of the state tax office questions the value of an estate asset.

84. Change: Section 3-708 is amended to conform with the changes to sections 3-706 and 3-707.

Reason: See reasons for amendment of sections 3-706 and 3-707.

85. Change: Section 3-713 is amended to require that any transaction between the personal representative and the estate be approved by the registrar or the court, and any transaction entered into without such approval is voidable.

Reason: Your Committee feels that it is desirable that transactions involving a conflict of interest be subjected to judicial scrutiny. The judicial review may be made at the time of approval of final accounts.

86. Change: Section 3-715(21) has been amended to include a reference to appraisers.

Reason: See comment to section 3-707 above.

87. Change: Section 3-719 is amended to make clear that the compensation paid the personal representative shall appear in his final accounts and shall be therefore approved by the court.

Reason: Your Committee feels that the amendment adds clarity. Your Committee recognizes that providing for reasonable fees rather than a statutory schedule will effect a major change in probate practice. Your Committee feels, however, that the United States Supreme Court decision in Goldfarb v. Virginia State Bar, \_\_\_ U.S. \_\_\_, 44L Ed 2d 572 (1975), casts a shadow over fixed fee schedules. Regardless of the

Goldfarb decision, however, your Committee feels that the personal representative should be compensated fairly for the work performed in every case, and the statutory fee schedule is at best an estimate of what constitutes fair compensation in a typical probate proceeding. Your Committee envisions that the courts will continue to look to the repealed statutory fees as a guide in determining a fair rate of compensation in the typical probate for personal representatives. Your Committee does not envision the registrar or the court requiring any evidentiary hearing on the reasonableness of the compensation of the personal representative or his employees unless either there is an objection from an interested person or the compensation appears to the registrar or the court on the face of it to be out of line with the work performed.

88. Change: Section 3-721 is amended to delete the reference to a special hearing for review of the propriety and compensation of an employee of the estate.

Reason: In view of the fact that the final accounts must be approved by the registrar or the court, a special hearing is unnecessary. As to the questions regarding the reasonableness of fees, your Committee's views are expressed in its comments under section 3-719 above.

89. Change: Section 3-801 is amended to (i) permit the notice to creditors to be published as a part of any notice published at the commencement of probate proceedings, and (ii) require that a nominee who is not appointed as personal representative turn over to the person who is so appointed all claims received.

Reason: Your Committee seeks to reduce the costs of probate proceedings by permitting a consolidation of any required notice of the pendency of the proceedings and the notice to creditors.

90. Change: Section 3-802 is amended by requiring only the consent of people whose interests are affected to a waiver of a statute of limitations.

Reason: The change is recommended by the Editorial Board and is designed to preclude an interested person whose interest is not adversely affected from preventing a waiver of a statute of limitations.

91. Change: Section 3-803(c)(1) is amended by adding reference to a "secured interest", and section 3-803(c)(2) is amended by including a statute of limitations for a claim against a liability insurer.

Reason: The amendment to section 3-803(c)(1) is intended to make more inclusive the language of S.D. 1. The amendment to section 3-803(c)(2) establishes the regular two-year tort statute of limitations for claims against a liability insurer of the decedent. The language of S.D. 1 says that claims against a liability insurer are not barred by the four-month nonclaim statute, but does not establish what statute of limitations applies. Your Committee's addition clarifies this point.

92. Change: Section 3-804(3) is amended by adding the requirement that any mailed notice must be by registered or certified mail and by increasing the period within which suit must be filed on a rejected claim from 60 to 90 days.

Reason: Your Committee feels that requiring registered or certified mail better insures that the notice will be received. Your Committee also feels that requiring suit on a rejected claim within 60 days puts too much of a burden on claimants.

93. Change: Section 3-805 is amended by inserting the homestead and family allowances and exempt property as items of priority.

Reason: Your Committee feels that the Uniform Probate Code is not as clear as it might be regarding priority. (See sections 1-201(4), 2-401, 2-402, 2-403, and 3-805.) Your Committee's language makes clear that amounts owing under sections 2-401 and 2-403 and property covered by 2-402 are to be paid and transferred prior to payment of claims.

94. Change: The title of section 3-806 is amended by making reference to the disallowance of claims. The body of section 3-806(a) is amended to make clear that the personal representative is not required to mail a disallowance and to increase from 60 to 90 days following the disallowance the period within which the claimant must sue. The last sentence of paragraph (a) has been deleted.

Reason: The title change is for clarity, as is the additional language in line 4.

The change from 60 to 90 days is to conform with the change in section 3-804(3). The last sentence of paragraph (a) would give to the failure of a personal representative to mail notice of action on a creditor's claim the effect of an allowance of the claim. It is felt that the danger that estates will suffer from the inadvertent allowance of claims outweighs the advantage to creditors of enforcing expeditious action on their claims. A creditor may institute legal proceedings for the allowance of his claim without awaiting notice of its rejection.

95. Change: Section 3-807(b) is amended to make clear that a personal representative suffers no personal liability for paying claims without regard to their priority if the estate in fact does pay all claims of equal or greater priority.

Reason: Your Committee feels that the additional language adds clarity without affecting the substance.

96. Change: Section 3-808 has been amended to continue the common law rules concerning the contractual and tort liability of a personal representative.

Reason: H.D. 1 preserved the common law rules in the case of trustees (see section 7-306), and this amendment, together with the amendment to section 5-429, provides for comparable treatment for other fiduciaires.

97. Change: Section 3-812 is amended by making reference to "other secured interest".

Reason: Your Committee intends to make more inclusive the language of S.D. 1.

98. Change: Section 3-816 is amended by adding a reference to the registrar and section 3-1003.

Reason: Your Committee's draft requires closing orders in both informal and supervised administration, thereby making necessary the reference to the closing order in an informal proceeding.

99. Change: Section 3-901 is amended by deleting the reference to "no administration" and providing that title to the decedent's property is established by the order of distribution.

Reason: Section 3-901 of S.B. No. 79 envisions an informal probate in which no personal representative is appointed. Since your Committee's draft requires both appointment and a closing order, the S.D. 1 language is inappropriate.

100. Change: Section 3-902 of S.B. No. 79 provides that realty and personalty abate equally, whereas your Committee's draft calls for personalty in one class of property to be abated prior to realty in the same class.

Reason: Your Committee feels that, given the importance of realty in Hawaii, most decedents would desire that personalty be abated before realty. See, e.g., Hawaiian Trust v. Wilder, 46 Haw. 436 (1963).

101. Change: Section 3-904 is deleted.

Reason: Your Committee prefers the common law case-by-case determination of whether or not devises bear interest. See, e.g., Estate of Wilder, 9 Haw. 492 (1894).

102. Change: Section 3-906(b) is amended by adding the requirement that any mailed notice must be by registered or certified mail and by specifying that the court, in the interest of fairness, may order distribution other than as proposed by the personal representative.

Reason: Your Committee feels that requiring registered or certified mail better insures that the notice will be received. Your Committee also feels that, in the interest of fairness, the court should have the discretion to order distribution other than as proposed by the personal representative.

103. Change: Section 3-907 is amended by deleting reference to the personal representative executing an instrument of conveyance for a distribution in kind and substituting therefor reference to a court order.

Reason: Your Committee's draft requires a court order of distribution, which order is the evidence of the distributee's title.

104. Change: Section 3-908 is amended by substituting "order" for "deed or instrument" and by making such order only evidence of the distributee's succession to the estate's interest in property, rather than "conclusive" evidence.

Reason: The substitution of "order" here and in section 3-910 is to conform to the change in section 3-907. The deletion of the reference to "conclusive" evidence is intended to give the courts broader discretion in weighing the evidence in the event of any dispute.

105. Change: Section 3-910 is amended by (i) inserting the requirement that the purchaser, lender or transferee be without actual notice of the impropriety of the distribution, (ii) inserting reference to a transferee from the distributee, and (iii) deleting the statement that the recipient need not inquire as to the propriety of the distribution.

Reason: Your Committee's new language discussed in (i) makes clear that the recipient is a bona fide taker if he is to avoid liability for returning improperly distributed property. The language discussed in (ii) is recommended by the Editorial Board in order to extend the protection accorded herein to transferees from the distributee. Your Committee's deletion of the last sentence and its refusal to add additional language recommended by the Editorial Board is not intended to suggest that a purchaser or lender is required to investigate the propriety of a distribution, but rather, is to leave to the common law and the conscience of the court whether or not the facts of any particular case are such as to have indicated that a prudent person would have investigated the propriety of a distribution.

106. Change: Section 3-911 is deleted.

Reason: The Judicial Council recommends the deletion of this section to avoid conflict with chapter 668, Hawaii Revised Statutes.

107. Change: Section 3-914 is deleted.

Reason: The Judicial Council recommends deletion of this section to avoid conflict with chapter 665, Hawaii Revised Statutes.

108. Change: Section 3-1001 has been substantially reorganized and amended, the effect of which is: (i) to require a petition to close an estate within two years after the appointment of the personal representative, (ii) to require that the testacy status, accounts, and distribution be determined, approved, and ordered, and (iii) to permit a closing as described in paragraph (a) to be undertaken either upon the request of an informally appointed personal representative or upon the petition of an interested person and the finding of good cause by the court.

Reason: Your Committee feels it desirable that a limit be set on the time necessary to probate an estate. Present Hawaii law establishes a one-year limit, which limit seems unreasonable on the face of it in view of the fact that the inheritance tax record is not required to be filed until eighteen months following the decedent's death. Your Committee envisions that the order under this section approving the accounts, ordering distribution, and discharging the personal representative will be similar in effect to that now utilized in our probate proceedings. Your Committee also seeks to make clear (i) the power of an informally appointed personal representative to switch to a supervised closing at his discretion, and (ii) the power of the court to deny the petition of any other party to switch from an informal to a supervised closing. Your Committee anticipates that the court would deny such a petition if it felt that a supervised closing was not in the best interests of the estate or its beneficiaries.

109. Change: Section 3-1002 has been deleted.

Reason: Section 3-1002 in S.B. No. 79 envisions the closing of an estate in which there is no order determining whether the decedent died with or without a valid will. Your Committee's draft requires that the testacy status be determined at the outset of probate proceedings, with the result that a closing within the meaning of this section would never occur.

110. Change: Section 3-1003 has been substantially amended, which amendments (i) require the personal representative appointed in informal proceedings to apply for an order closing the estate within one year, (ii) require an itemization of income received, expenses paid, and property left in the hands of the personal representative, (iii) require that the personal representative identify the distributees and the property to be received by each, (iv) require service of the pleadings to close the estate upon all interested

persons, (v) permit an interested person to file an objection to the pleadings, (vi) direct the registrar to schedule a hearing concerning the closing upon timely receipt of an objection from an interested party, (vii) direct the registrar in other cases to issue an order approving the accounts, ordering the distribution, and discharging the personal representative, (viii) make reference to taxes which may be unpaid at closing, and (ix) provide that an informal closing may be transferred by an interested person to a supervised closing only upon good cause.

Reason: As indicated above, your Committee feels that all probate proceedings should have a beginning and an end. Your Committee's amendments to section 3-1003 are designed to provide an end to informal proceedings. The basic difference between a closing under sections 3-1003 and 3-1001 is that, in the latter, a hearing is automatically scheduled and occurs, whereas in the former, a hearing only occurs upon objection by an interested person. Since inheritance taxes are not required to be paid until eighteen months after the decedent's death, it is conceivable that the personal representative will not have paid the same as of the time he seeks to close the estate. Rather than have the probate linger, your Committee's draft envisions a closing with a discharge of the personal representative conditioned upon his later proof of payment of taxes, just as personal representatives are presently discharged conditioned upon the filing of receipts by the distributees. Requiring good cause to switch from an informal to a supervised closing is consistent with the amendment to section 3-502 and is designed to keep the costs of probate low.

111. Change: Section 3-1004 has been amended (i) to provide for the joinder of the personal representative in any suit against a distributee by a creditor of the estate, (ii) to make clear that a distributee may be liable to the claimant for an amount in excess of the value of its distribution as provided in section 3-909, and (iii) to make clear that distributees do not contribute pro rata to the recovery of a claimant against any particular distributee if the order approving distribution allocated liability for the claim in some other manner.

Reason: Your Committee feels that joining the personal representative in a lawsuit against the distributee on account of an improper distribution is desirable since a personal representative is presumably the party with best knowledge as to the propriety or lack of propriety of the distribution. The liability of the personal representative is as determined in section 3-1005. The other amendments add clarity.

112. Change: Section 3-1005 has been amended to make clear that it applies to both formal and informal closings and to increase the time within which the personal representative may be sued for breach of his fiduciary duty from six months to two years after the filing of the order discharging the personal representative.

Reason: Since your Committee's draft requires closing orders in both formal and informal proceedings, your Committee feels that it is logical to have the same rules concerning fiduciary liability applied to both situations. The two-year statute of limitations is the standard tort statute in Hawaii.

113. Change: Section 3-1006 is amended so as to be more parallel with section 3-1005 and to raise from one to two years the time within which a distributee may be sued for return of property improperly distributed to him.

Reason: See discussion of section 3-1005 above.

114. Change: Section 3-1008 is amended by deleting the reference to property discovered more than one year after the closing statement has been filed.

Reason: The deleted language only has relevance in the absence of an order closing the estate, and your Committee's draft requires such an order for every estate.

115. Change: Section 3-1101 is amended by (i) deleting the word "formal" in line 5, (ii) adding language referring to a controversy over the testacy status of the decedent, and (iii) deleting reference to unborn, unascertained, or unlocated persons.

Reason: The deletion of "formal" is intended to make clear that, if the estate is \$30,000 or less, it may be probated informally even if the compromise agreement has to be approved in a formal proceeding. Adding reference to the testacy status of the decedent is intended to make clear that one of the subjects of a compromise agreement may be whether or not the decedent had a valid will. Deleting reference to unborn, unascertained, or unlocated parties is intended to make clear that they are not bound by a compromise agreement unless their interests are adequately represented by persons

similarly situated or by guardians ad litem.

116. Change: Section 3-1102(3) is amended by providing that minor children are bound by a compromise agreement only if represented by a guardian ad litem who approves thereof.

Reason: Your Committee fears that according parents the power to compromise their children's rights may lead to undesirable results, as where the parents stand to profit at their children's expense from the compromise. The court, of course, has the power to appoint a parent as the guardian ad litem and would probably do so if there was no conflict. Your Committee envisions that a parent would execute a compromise agreement contingent upon appointment as a guardian ad litem, which appointment would be made at the time of approval of the compromise.

117. Change: Part 12 of Article 3 is substantially amended.

Reason: Your Committee is of the opinion that the present Hawaii procedures which entail a clerk of the court handling small estates has worked very well, and your Committee is unwilling to change said procedures. The only criticism of which your Committee is aware is that the jurisdictional amount of the estate administrable by the clerk is too small. Accordingly, your Committee has included as sections 3-1205 through 3-1215 the existing Hawaii small estates provisions found at section 531-51 through 531-61, except your Committee has increased the jurisdictional limit from \$3,000 to \$10,000 and has made minor changes in terminology to conform with the language of S.B. No. 79.

118. Change: Section 3-1201 is amended to reduce the amount collectable by affidavit from \$5,000 to \$100 and to change the content of the affidavit.

Reason: Your Committee's draft incorporates in section 3-1201 the provisions now found in section 531-71. Your Committee feels that the much lower amount collectable by affidavit under its draft is warranted in view of the potential for mischief inherently present in an affidavit collection procedure.

119. Change: Sections 3-1203 and 3-1204 are deleted.

Reason: Your Committee feels that the small estates procedures included in sections 3-1205 through 3-1215 adequately cover the field.

120. Change: Section 4-101 is amended to provided that the spouse, parent, or child of the decedent may be the personal representative in ancillary probate proceedings whether or not they are residents of Hawaii.

Reason: Your Committee does not think it necessary to have a Hawaii resident be the personal representative in ancillary probate proceedings so long as a close family member of the decedent is so appointed.

121. Change: Article IV, Part 2, has been amended by the deletion of sections 4-201 through 4-207.

Reason: The deleted sections allow mainland executors, both individuals and corporations, to come to Hawaii and remove Hawaii personal property with virtually no protection for Hawaii creditors, and allow mainland executors of non-resident decedents powers to administer probate property in Hawaii just as a local executor could, when similar privileges are not extended by most states to Hawaii executors.

122. Change: Section 4-301 is amended by inserting the requirement for the filing of an application or petition for appointment and deleting the reference to receiving property of the decedent without appointment.

Reason: Your Committee's draft requires that a foreign personal representative commence proceedings and be appointed in this State in order to obtain the rights of a personal representative under Article 3. Thus, the language of S.B. No. 79 which makes reference to a personal representative collecting assets without being appointed, is no longer appropriate.

123. Change: Section 4-401 is deleted.

Reason: Your Committee prefers to leave it to the courts to determine on a case-by-case basis the effect of a judgment in another state on ancillary proceedings in this State.

124. Change: Section 5-101 and the balance of S.B. No. 79 is amended by deleting the word "conservator" and inserting in its place the words "guardian of the property", and by inserting the words "of the person" after the word "guardian". A definition of "guardianship proceedings" is added.

Reason: Your Committee feels that the word "conservator" may be misunderstood and may mean different things in different jurisdictions. Your Committee prefers to use the traditional language of "guardian of the person" and "guardian of the property". These changes are made throughout the Uniform Probate Code. The addition of the definition of "guardianship proceeding" is for clarity.

125. Comment: The House Judiciary Committee recommended that the jurisdiction of the family court be expanded to include guardians of the property in situations wherein a guardian of the person was also being sought. Your Committee has been advised that the family court of the first circuit may be unable to handle the increased workload in view of anticipated increases in its workload resulting from new federal and state laws relating to enforcement of support obligations and commitment procedures for the mentally ill. Accordingly, your Committee's draft retains the existing jurisdiction of the circuit court over guardians of the property.

126. Change: Section 5-103 is amended to limit its application to one payment or transfer with a value not exceeding \$1,000.

Reason: Your Committee feels that protective proceedings ought not to be required where one relatively small sum is owing a minor. Where the sum is larger than \$1,000 or where there are continuing payments being made on account of the minor, your Committee thinks that the safeguard of having a court appointed guardian of the property is desirable.

127. Change: Section 5-104 is deleted.

Reason: Your Committee feels that a guardian of the person appointed by the court should have court approval of any person to whom he wishes to delegate his powers.

128. Change: Section 5-201 is amended by deleting the reference to a testamentary appointment.

Reason: Present Hawaii law and the language of S.B. No. 79 both require the court accede to a testamentary appointment of a guardian. Hawaiian Trust Co. v. Stanley, 31 Haw. 705 (1930). Your Committee thinks this to be bad law, for the circumstances which led the decedent to designate a guardian in his will may have changed, and your Committee wants the court to have discretion to appoint some other person if the best interests of the minor so require. The court should, however, give preference to a testamentary nominee and should only appoint someone else if there is good cause for doing so.

129. Change: Sections 5-202 and 5-203 are deleted.

Reason: Since your Committee's draft requires testamentary nominees to be approved by the court, there is no longer a need to have special provisions concerning them. Thus, references to testamentary guardian throughout this part have been amended.

130. Change: Section 5-204 is amended to make clear that a testamentary nominee has priority but is not required to be appointed guardian of the person of a minor, and, together with sections 5-304 and 5-401, is amended to require that guardians be residents of Hawaii.

Reason: See the reason for amendment of section 5-201 above. The requirement of residency is existing Hawaii law.

131. Change: Section 5-206 is amended to make clear that the provisions thereof are subject to the provisions of section 5-204.

Reason: Your Committee feels that a testamentary nominee should have priority over the minor's nominee.

132. Change: Section 5-207 is amended by requiring notice to the grandparents of the minor as well as to the guardian of the minor's property. This section is further amended by reducing from six months to 90 days the length of time during which a temporary guardian may serve.

Reason: Your Committee feels that giving notice of the pendency of the appointment



of a guardian of the person of a minor to any living grandparent of the minor will insure that the family learns of the proceedings. Giving any guardian of the minor's property notice of the pendency of the appointment of a guardian of the person is to help insure that all persons concerned with the minor have knowledge of all significant steps being taken with respect to the minor. The Committee feels that six months is too long a term for a temporary guardian who may be appointed without notice.

133. Comment: The House Judiciary Committee recommended that notice also be given to natural parents. Your Committee has been advised by the family court that requiring such notice may pose very practical difficulties which would unnecessarily complicate guardianship proceedings. Since the appointment of a guardian does not adversely affect any rights of a natural parent (as opposed to an adoption proceeding), your Committee does not believe that the benefits to be derived from such notice outweigh the administrative hardships caused thereby.

134. Change: Section 5-212(a) has been amended to provide for a guardian ad litem requested by a minor to bring a proceeding to remove the guardian of the person of a minor ward.

Reason: S.B. No. 79 provides for a minor ward 14 or more years of age bringing an action for removal of his guardian of the person, but a minor lacks standing to bring an action. Thus, your Committee's draft provides that a minor ward 14 or older may request the family court to appoint a guardian ad litem for the purpose of bringing such a proceeding.

135. Change: Section 5-212(c) is amended by requiring the court to appoint an attorney to represent the minor if the court determines that the interests of the minor are or may be inadequately represented in proceedings designed to remove the guardian.

Reason: Your Committee feels that, once the court has made the determination that the minor's interests are or may be inadequately represented, the court should be required to appoint an attorney to represent the minor.

136. Change: Section 5-301 is amended to give the family court power not to appoint a person designated in the will of a parent or spouse as guardian of the person of an adult if good cause exists.

Reason: See discussion of reasons for amendment to section 5-201.

137. Change: Section 5-303 is amended by making it optional for the court to appoint a physician to examine an alleged incapacitated person, by changing the reference to "the visitor" to "a family court officer or other person designated by the family court", and by deleting the reference to the request of the person alleged to be incapacitated or his counsel to have a closed hearing.

Reason: The first amendment is desirable since there may be situations in which the court does not feel the need to appoint a physician, perhaps because there is other adequate physician testimony, and the court should have discretion in such a case not to make such an appointment. The reference to "the visitor" is deleted as being confusing. The last amendment is intended to give the court discretion as to whether or not the hearing be closed, either on its own motion or the motion of an interested person.

138. Comment: In addition, your Committee desires to make clear its legislative intent that section 5-303(b) is not designed to handle problems concerning the alleged incapacitated person's rights against self-incrimination. In other words, the court on a case-by-case basis will have to resolve any questions concerning the statements made by the alleged incapacitated person either to any doctor appointed by the court or to any court officer.

139. Change: Section 5-307(c) is amended by making reference to section 5-303.

Reason: Your Committee feels that the amendment makes more clear that the ward has the same procedural safeguards in proceedings to remove a guardian or terminate the guardianship that he has in the initial proceedings to appoint a guardian of the person.

140. Change: Section 5-308 is deleted.

Reason: This section defines "the visitor", which terminology is deleted in your Committee's draft.

141. Change: A new section designated 5-308A is added.

Reason: This new section will require the guardian of a person to report to the court as the court shall request on the condition of the protected person. A guardian of the property is required to account to the court concerning the status of his ward's financier. (See section 5-419.) Your Committee feels it to be even more important that a guardian of the person be required to report to the court concerning his ward's condition.

142. Change: Section 5-309 is amended so as to be more parallel with the requirements of section 5-207.

Reason: See the reason for amendment of section 5-207 above.

143. Change: Section 5-310 is amended to reduce the period during which a temporary guardian may serve from six months to 90 days and to make clear that the family court has the right to appoint a temporary guardian of the person whether or not another guardian of the person was previously appointed.

Reason: Since a temporary guardian may be appointed without notice, your Committee is reluctant to have one serve for as long as six months. Your Committee feels that the second amendment adds clarity.

144. Change: Section 5-311 is amended to make clear that the family court is not bound by the order of priority listed.

Reason: Your Committee feels that the family court should have discretion on a case-by-case basis to determine who can best serve as a guardian, and your Committee does not wish to tie the court's hands by requiring an appointment in the order of priority listed if good cause exists for the appointment of another. In all events, the standard which the court shall apply in selecting a guardian is the best interests of the incapacitated person.

145. Change: Section 5-402 is deleted.

Reason: Your Committee feels that this section is superfluous since the circuit courts are courts of general jurisdiction.

146. Change: Section 5-405 has been amended to provide for notice in the manner and to the persons specified under section 5-309.

Reason: Your Committee feels that notice of any proposed commencement or termination of a guardianship should be given the widest possible circulation amongst family members, and the provisions of section 5-309 are very thorough.

147. Change: Section 5-407 has been amended to make the procedure parallel with that contained in section 5-303.

Reason: Your Committee believes that the consideration for the rights of an alleged incapacitated person which is found in section 5-303 should also extend to a person alleged to need a guardian of the property.

148. Change: Section 5-408(3) is amended to include reference to section 5-408(4).

Reason: Your Committee seeks to make clear the intent of S.D. 1 that exercise of certain of the powers contained in (3) may be made only after a hearing thereon under (4).

149. Change: Section 5-408(4) is amended to include transactions relating to realty among those requiring notice and hearing, and to identify how and to whom notice is to be given.

Reason: Your Committee feels that transactions involving the protected person's realty should be preceded by a hearing after notice to as many people with a possible interest in the protected person as practicable. Your Committee's language is not intended to apply to transactions with a short-term effect, such as short-term rentals of the protected person's realty.

150. Comment: Your Committee desires to make clear its legislative intent that section 5-408(5) states as a rule that mere appointment of a guardian of the property does not in any manner imply that a guardian of the person is called for.

151. Change: Section 5-412(e)(2) is new.

Reason: The amendment is identical to, and is made for the same reason as,

the amendment to 3-606(a)(2) discussed above.

152. Change: Section 5-419 is amended to require the guardian of the property to account to the court upon termination of the protected person's disability.

Reason: Your Committee feels that the interests of the ward are best protected by requiring an accounting filed with the court, whatever the reason for the termination of the guardianship.

153. Change: Section 5-422 is amended to require court approval of a guardian's transaction involving a conflict of interest.

Reason: Your Committee feels that any transaction between a guardian and his ward should be given judicial scrutiny. The judicial review may be made at the time of any required accounting.

154. Change: Section 5-424 is amended to make reference to sections 5-408(4) and 5-422.

Reason: Your Committee's amendment makes clear that the broad powers conferred on the guardian by this section may be exercised only upon court approval, after notice and hearing, if the transaction is within the purview of sections 5-408(4) and 5-422.

155. Change: Your Committee has amended section 5-425(c) and (d) by including reference to section 5-419, and has further added a reference to section 5-429(d) in section 5-425(d).

Reason: Your Committee desires to make clear that a guardian who distributes to a ward under section 5-425(d) without a court order does so at his peril and is not relieved of his duty to file final accounts with the court.

156. Change: Section 5-425(e) is amended to require the initiation of probate proceedings by a guardian of the property if no such proceedings are commenced within 40 days after the decedent's death.

Reason: Your Committee feels that post-death transfers should be handled in proceedings initiated for that purpose rather than in proceedings initiated as a guardianship.

157. Change: Section 5-428(a) is amended by deleting the third sentence.

Reason: The deleted sentence would give to the failure of the conservator to mail a disallowance of a creditor's claim the effect of an allowance of the claim. It is felt that the danger that estates will suffer from the inadvertent allowance of claims outweighs the advantage to creditors of enforcing expeditious action on their claims. A creditor may institute legal proceedings for the allowance of his claim without awaiting notice of its disallowance.

158. Change: Section 5-429 has been amended to continue the common law rules concerning the contractual and tort liability of a guardian of the property.

Reason: See reason for the amendments to section 3-808.

159. Change: Sections 5-431 and 5-432 are deleted.

Reason: Your Committee feels that, in order to be entitled to collect debts due his ward, a guardian of the property appointed in another state should qualify in Hawaii.

160. Change: Section 5-502 is amended to delete the provisions relating to the continuation of the attorney-in-fact's powers after the death, etc. of the principal.

Reason: Such amendment is designed to provide that the death, disability, or incompetence of a principal revokes a power of attorney (other than one under section 5-501) whether or not the attorney-in-fact has knowledge of such death, disability, or incompetence. Thus, an act entered into by the attorney after the occurrence of such an event is void.

161. Change: Section 6-101(3) is amended by deleting the reference to trust companies and building and loan associations and by inserting a reference to industrial loan companies.

Reason: Trust companies in Hawaii do not provide the accounts referred to in Part 6 whereas industrial loan companies do. There are no building and loan associations

in Hawaii.

162. Change: Section 6-101(4) is amended to refer to an account payable on request at some time in the future.

Reason: Your Committee seeks to make clear that time certificates of deposit are within the definition of a joint account.

163. Change: Section 6-101(7) has been amended by deleting the reference to an attaching creditor.

Reason: Your Committee does not intend to reduce any rights which creditors now have to attach multiple-party accounts. Rather, your Committee seeks to make clear that the depository is not bound to follow the instructions of an attaching creditor without a court order.

164. Comment: Your Committee has not amended section 6-101(14), but desires to make clear its legislative intent that a financial institution is not required to make any investigation as to whether or not the sums on deposit in a trust account are the only subject of the trust.

165. Change: Section 6-104(c) is amended to make clear how a trustee account with two or more trustees is handled upon the death of one.

Reason: The amendment is suggested by the Editorial Board for the sake of clarity.

166. Change: Section 6-104(c)(2) is amended to provide that there is a right of survivorship amongst two or more beneficiaries surviving the death of the last surviving trustee of a trust account.

Reason: Your Committee desires to keep simple the existing banking procedures for opening trust accounts. Your Committee feels that this can be accomplished by providing for a continuing right of survivorship amongst the beneficiaries of a trust account. If the settlor of the trust account does not desire this result, he may open separate trust accounts for the various beneficiaries.

167. Change: Section 6-105 is amended to provide that the form of an account may be changed only upon written notice signed by all parties thereto.

Reason: Your Committee feels that confusion may result if one party (a "party" being defined in section 6-101(7) as a person with a present right to withdraw from a multiple-party account) may change the form of a multiple-party account, for the other parties to the account may not be aware of such change. If a party desires to effect a change, of course, he may withdraw all funds from the account and open a new account with the desired changes.

168. Change: Section 6-106 is amended by adding a reference to section 6-107.

Reason: Your Committee feels that the amendment adds clarity.

169. Change: Section 6-107 is amended to (i) delete the provision subjecting multiple party accounts to the claims of creditors, and (ii) to provide that a financial institution with actual knowledge that a payment should not be made is not relieved from liability if it makes payment.

Reason: Present law does not accord creditors the right to attach the interest of a decedent in property held in joint tenancy, and your Committee sees no reason why they should be accorded that right in the case of a multiple party account. Throughout Article VI, your Committee has deleted protection for financial institutions which have actual knowledge of facts indicating that payment under a multiple party account should not be made. S.B. No. 79 accords no protection if the financial institution receives written notice; your Committee feels that they should have no protection if they have actual knowledge derived other than from such written notice. Your Committee feels that the rearranged language more clearly accomplishes the objectives of the section. Your Committee intends that this section permit a surviving spouse or dependent children to claim against a multiple-party account if necessary to secure their homestead or family allowance and further permit a personal representative to so claim if necessary to pay taxes and expenses of administration.

170. Change: Sections 6-108 and 6-109 are amended by adding a reference to sections 236-24 and 6-107 and by making clear that a financial institution may not pay upon a request

for payment which is inconsistent with the terms of the deposit agreement.

Reason: Your Committee does not intend for this section to change the provisions of sections 236-24 which permit a financial institution to pay out one-half of a joint account without liability unless the financial institution has knowledge under section 6-107 that payment should not be made. If a financial institution does pay out one-half of the joint account as authorized under section 236-24 without section 6-107 knowledge of any impropriety in doing so, and the remaining one-half is not sufficient to pay the sums itemized in section 6-107, the parties entitled to payment will have to proceed against the joint depositor and not against the financial institution.

171. Comment: Your Committee has not substantially amended section 6-112, but desires to make clear its legislative intent that this section authorizes a party to effectively prevent withdrawals from a multiple-party account by written notice to the depository.

172. Change: Section 6-201 is deleted.

Reason: Your Committee is reluctant to expand the common law rules regarding will substitutes.

173. Change: Section 7-101 is amended to permit registration of a trust relating only to land in the judicial circuit in which the land is located.

Reason: Your Committee feels that such judicial circuit is a logical one for registration purposes.

174. Change: Section 7-102 is amended by deleting the reference to oral trusts.

Reason: Your Committee fears that permitting a person to file a statement which describes an alleged oral trust may make for mischief, since a cloud could be cast upon property by a fraudulent filing. Under your Committee's draft, only trusts evidenced by writings are subject to registration.

175. Change: Section 7-103 is amended by making reference to court rules concerning the service of process.

Reason: Your Committee seeks to preserve the existing court rules for the service of process in civil actions.

176. Change: Sections 7-104 and 7-303 are amended by including a reference to section 1-108.

Reason: Your Committee desires to make clear that the settlor of a revocable inter vivos trust may preserve the confidentiality of the trust by preventing beneficiaries from either securing registration of the trust or obtaining the terms or accounts of the trust from the trustee.

177. Change: Section 7-105 is deleted.

Reason: This section would have permitted a foreign corporation, as trustee, without qualification as a foreign corporation, to receive distribution from a local estate or to hold, invest in, manage or acquire property located in Hawaii, or to maintain litigation. The section is in conflict with section 406-4, Hawaii Revised Statutes, which provides that no corporation may engage in the business of acting as a trustee except a trust company or a bank which is organized under Hawaii law. It is felt that the requirements of section 406-4 should be retained unless and until the legislature provides an effective structure of regulation and supervision of foreign corporate fiduciaries.

178. Change: A new section designated as section 7-106 has been added to provide for the de-registration of a terminated trust.

Reason: Your Committee seeks to avoid cluttering the current trust registry with details of terminated trusts by empowering the court to remove record of the trust therefrom.

179. Change: Section 7-201 is amended by permitting trustees to initiate actions concerning trusts.

Reason: Your Committee believes that the omission of trustees as proper parties to commence an action relating to a trust was an oversight in the Uniform Probate Code.

180. Comment: Your Committee recognizes that section 7-201 may be superfluous

since the circuit courts are courts of general jurisdiction, but in view of the Hawaii cases which hold that the probate judge at chambers does not have jurisdiction over the affairs of trusts, your Committee recommends that the section be retained to make clear that the courts do have this jurisdiction under the Uniform Probate Code.

181. Change: Section 7-205 is amended to retain the existing statutory fee schedule for trustees.

Reason: Whereas a statutory fee schedule based on the value of the assets being administered may not be appropriate in the case of decedent's estates in view of the nature of such proceedings as one-time endeavors, your Committee feels that such a fee schedule is appropriate in the case of a trust which entails continuing responsibility and liability. The trustee is in the nature of a businessman with a continuing obligation for the affairs of the trust, and it seems appropriate to your Committee that his compensation be based upon the amount of responsibility assumed. It is your Committee's intent that this section empowers an interested person to obtain judicial review of the trustee's methods of valuing assets and allocating receipts to principal and income, and empowers the court to review the reasonableness of the trustee's compensation for special services upon application of an interested person.

182. Change: Your Committee has amended section 7-303(1) to clarify who is entitled to receive notice of registration.

Reason: It is your Committee's intent that each beneficiary with a present entitlement to receive benefits from a trust (even though the granting of any such benefits may be entirely discretionary on the part of the trustee) should receive notice of the registration of the trust.

183. Change: Section 7-305 is amended to refer to section 554-2, Hawaii Revised Statutes, and to make clear that good cause must exist before a beneficiary may cause a trust to be removed from its principal place of administration.

Reason: Your Committee seeks to balance conflicting interests: S.D. 1 would have prevented removal on the theory that the settlor selected the trustee and his decision should not be overturned by the beneficiaries, whereas H.D. 1 would have permitted removal if the principal place of administration became inappropriate for any reason. Your Committee's draft permits removal on a showing of good cause therefor. The reference to section 554-2 is designed to preserve the rights arising under that section.

184. Change: Section 7-306 is amended to (i) make the trustee personally liable on contracts unless expressly relieved therefrom and (ii) make the trustee personally liable for torts.

Reason: Your Committee's draft retains the common law rules, which rules your Committee sees no compelling reason to amend.

185. Change: Section 7-307 is amended to increase the period within which a trustee may be sued for breach of trust from six months to two years and by making reference to section 1-401.

Reason: Two years is the existing Hawaii statute of limitations on tort actions, and your Committee sees no need to accord trustees a shorter statute.

186. Change: A new Part 4 relating to the powers of trustees is added.

Reason: Your Committee feels that some reference to the powers of trustees should be made.

187. Change: The effective date of Articles II, III, and IV has been postponed until July 1, 1977.

Reason: Your Committee feels that the additional time is needed so that the courts, attorneys, and professional fiduciaries will be able to prepare for the new laws and procedures contained in those Articles.

188. Change: Article VIII has been amended so as to conform with the amendments to Articles I through VII.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 79, S.D. 1, H.D. 1, as amended herein, in the form attached hereto as S.B. No. 79, S.D. 1, H.D. 1, C.D. 1, and recommends that it pass Final Reading.

Senators Nishimura, O'Connor, Hara, F. Wong and Leopold  
Managers on the part of the Senate

Representatives Roehrig, Lee, Uechi, Yamada, Carroll and Medeiros  
Managers on the part of the House

Conf. Com. Rep. No. 25-76 on H.B. No. 2700-76

The purpose of this bill is to provide for a medical malpractice insurance system which will: (1) stabilize the cost of medical malpractice insurance and insure the availability of such insurance at a reasonable cost; (2) decrease the costs of the recovery system for medical malpractice and improve the efficiency of its procedures; (3) impose appropriate sanctions on errant health care providers; (4) provide and improve the machinery for resolving patient grievances against health care providers by the addition of lay members to the board of medical examiners, the hiring of additional staff for the board, and increasing the reporting requirements to the board.

Your Committee upon further consideration has made the following amendments to H.B. No. 2700, H.D. 2, S.D. 1:

(1) Pages 4 and 5. Subsection (b) of the section on informed consent has been amended to mandate the Board of Medical Examiners to establish, insofar as practicable, standards for information required to be given and the manner in which it is given to constitute informed consent. In a medical tort action based on lack of informed consent, the standards established by the Board of Medical Examiners will be prima facie evidence of the standard required for obtaining informed consent but may be rebutted by either party.

(2) Page 10, lines 19 and 20. The Senate draft of the bill provided that the living and travel expenses of consultants called by the medical claim conciliation panel would be paid for equally by the parties. This provision has been amended to have the Department of Regulatory Agencies pay such expenses.

(3) Pages 10 and 11. Section -12 provides that any medical tort claim be first submitted to the medical claim conciliation panel before a suit based on the claim be commenced in court. If this provision becomes effective upon approval of the Act, there may be some problem as to existing claims because some time will be needed to set up the panel. In order to avoid this problem, the bill has been amended to provide for an effective date of July 1, 1976 for claims to be submitted to the panel.

(4) Page 16, lines 11-13. In setting up the medical claim conciliation panel it is intended that no court action may be filed while the claim is being considered by the panel. The language in the Senate draft implied this but for clarification, the bill has been amended to affirmatively state that no action may be filed until one party rejects the recommendations of the panel.

(5) Page 17, lines 13-18. The filing of a claim with the medical claim conciliation panel tolls any applicable statute of limitations. The bill as considered by your Committee provided that the statute of limitations remained tolled until the earliest date that litigation based on the claim can be instituted. That date would be the date on which a party rejects the recommendation of the panel. Therefore, if none of the parties rejects the recommendation of the panel the statute of limitations could be tolled indefinitely. In order to avoid such a situation and to encourage prompt disposition of medical tort claims, the bill has been amended to provide that the statute of limitations remains tolled for sixty days after the panel issues its decision. After that period the statute of limitations continues to run.

(6) Page 22, lines 8 and 9. Your Committee has clarified the fact that the patients' compensation fund is established as a legal entity and may sue and be sued under its name.

(7) Page 23, line 26. The requirement for court approval of settlements which result in payment from the fund has been deleted. The deletion is in harmony with the reason for establishing the medical claims conciliation panel, i.e., the encouragement of early settlement of claims without litigation. The fund is adequately protected against ill advised settlements by an insurer or self insured by the requirement that the insurance commissioner approve such settlements.

(8) Page 24, lines 1-4. The intent that the patients' compensation fund will provide occurrence coverage for medical torts has been clarified. The fund will pay that part of a judgment, award, or settlement in excess of \$100,000 if the health care provider

against whom the damages are awarded was a participant in the patients' compensation fund when the alleged medical tort occurred.

(9) Page 26a, lines 7 and 8. The section requiring insurers and self insureds to report any claims made against a health care provider to the insurance commissioner has been amended to clarify that such reports are not public records. The reports may contain information that could cause damage to professional reputations and, therefore, should be kept confidential.

(10) Page 26a, lines 21-33; page 26b, lines 1-10. A new subsection has been added creating a cause of action in favor of the patients' compensation fund against an insurer or selfinsured who refuses to settle a claim for \$100,000 or less in bad faith. In such cases, if a subsequent award or judgment exceeds \$100,000, the insurance commissioner may file an action against the insurer or self insured involved for any sums paid by the fund.

A corresponding amendment has been made on page 31 by deleting a proposed subsection which would have provided a similar cause of action but located it in Chapter 431. Your Committee feels that a more appropriate place for the provision is in the section of the law setting forth the powers of the insurance commissioner in connection with the patients' compensation fund. Moreover, the deleted provision did not contain the bad faith requirement for the cause of action to arise and did not specify whether the cause of action would be against the insurer or the insured.

(11) Pages 37 and 38. The manner of selecting the physician and surgeon members of the Board of Medical Examiners has been amended by deleting the mandatory election procedures for a candidate list from which the Governor must select his appointees. Instead, the medical societies are authorized to conduct elections for lists of candidates to be submitted to the Governor. Although the Governor need not limit his appointments from the lists of candidates, it is your Committee's intention that he give due consideration to the elected candidates when making appointments.

(12) Page 53, line 20. Because of the amendments discussed in item (11) above, Section 21 of the bill which provided that the incumbent members of the Board of Medical Examiners shall continue in office until their terms of office expire, has been deleted as unnecessary. In place thereof your Committee has inserted an appropriation of \$85,000 for the purposes of increasing the staff of the Board of Medical Examiners in order that the Board can fulfill its increased duties under this bill.

(13) Other minor changes have been made for clarification; these changes do not alter the intent of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2700, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2700, H.D. 2, S.D. 1, C.D. 1.

Senators Nishimura, Chong, Hara, O'Connor, R. Wong, George and Saiki  
Managers on the part of the Senate

Representatives Yamada, Cayetano, Cobb, Kondo, Stanley, Yap, Fong and Medeiros  
Managers on the part of the House

Conf. Com. Rep. No. 26-76 on H.B. No. 2782-76

The purpose of this bill is to clarify the present language and to amend the campaign spending law to conform to the U.S. Supreme Court decision in Buckley v. Valeo, 44 U.S.L.W. 4127, on January 30, 1976, and to those portions of Attorney General's Opinion 762 which discuss the applicability of said decision to limitations on campaign expenditures and on disclosure.

Your Committee is concerned that the carefully molded balance of limiting the effect of large contributions by limiting campaign expenditures has been upset by the Court, and that the primary concerns which must be met are the preventing of abuse and the appearance of improper influence, and the fostering of increased confidence in the electoral process.

Ballot Questions and Issues

Your Committee notes that Buckley discusses issues in terms of candidates campaigning on the basis of their positions on various public issues and in terms of campaigns themselves



generating issues of public interest, but the Court did not directly address disclosure by persons supporting or opposing issues that appear on the ballot in the form of ballot questions to be submitted to the electorate for a decision. Particularly in the light of the upcoming ballot question on the constitutional convention and issues that could be placed on the ballot by such a convention, your Committee is concerned that large contributions by individuals and businesses to persons supporting or opposing a ballot question, without disclosure, will distort, unduly influence, and may corrupt our electoral process. Therefore, the following sections have been retained in their present form:

- (a) Section 11-191 Definitions of "committee", "contribution", and "expenditure".
- (b) Section 11-197 Organizational reports.
- (c) Section 11-199 Campaign contributions, generally.
- (d) Section 11-200 Campaign contributions, restrictions against transfer.

#### Testimonial Affairs

The limitation on the number of testimonial affairs has been very thoroughly discussed. Your Committee does not consider the limit on the number of testimonial affairs to be violative of associational rights under the First Amendment. The intent of your Committee in retaining this provision is to prevent the indiscriminate use of testimonial affairs to repeatedly pressure the public into purchasing tickets to such affairs and, thus, making contributions or larger contributions than it might have otherwise made. The holding of repeated testimonial affairs has been a prevalent practice in the past, and this practice imposes a significant financial burden on the public. Limiting the number of testimonial affairs does not undermine the public's ability to engage in active support for a candidate. Personal services may still be rendered, and additional monetary contributions can be made.

Your Committee upon further consideration has made the following amendments to H.B. No. 2782-76, H.D. 1, S.D. 1:

1. Section 11-191 (1) and 11-210 Advertising. Your Committee recommends that the present law on advertising be retained to prevent deceptive political advertisements. The concern is that the failure to require identification of the sponsor of a political advertisement may allow a candidate to publish a misleading advertisement and attempt to attribute the sponsorship to an opponent. Retention of these provisions would also identify the source of negative advertising and allow the rebuttal of advertisements which are inaccurate.

Section 11-210 has been amended to expand the disclosure requirement to include individuals, associations, business entities, and others within the meaning of "persons".

2. Your Committee has also amended the bill to correct minor grammatical and typographical errors.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2782-76, H.D. 1, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2782-76, H.D. 1, S.D. 1, C.D. 1.

Senators Nishimura, O'Connor, Ching, Kawasaki and Saiki  
Managers on the part of the Senate

Representatives Roehrig, Uechi, Cobb, Kondo, Naito, Takamine, Fong and Santos  
Managers on the part of the House

Conf. Com. Rep. No. 27-76 on H.B. No. 2984-76

The purpose of this bill is to amend the Horizontal Property Act in matters relating to: (1) blanket mortgages affecting apartments; (2) changes in building plans; and (3) cancellation rights of purchasers.

The bill amends the following sections of chapter 514, Hawaii Revised Statutes:

(1) Section 514-16. This section has been amended to clarify that a blanket mortgage or lien must be released only upon the first conveyance by deed or lease to a purchaser. Under existing law this section could be interpreted to include the first conveyance from the landowner to the developer. Further, the amendment clarifies that blanket mortgages and liens must be satisfied of record only upon conveyance by deed or lease and that first sales of apartments may be by agreements of sale without obtaining releases of the blanket mortgages and liens.

(2) Section 514-37. Presently this section requires that any change in the condominium building plans for a project which requires the approval of the county officer having jurisdiction over the issuance of building permits must be approved by the purchaser. It is common knowledge that during the construction of a building, many minor changes are made which have no substantial effect on the building. This section as presently worded could be interpreted as requiring the approval of the purchaser for every minor change and thereby impose an impossible burden on the developer. The bill amends this section by requiring the purchaser's approval only when there are material changes in the building plans. The amendment conforms this section to section 514-42, Hawaii Revised Statutes, which requires that a supplementary public report be issued when the developer proposes to materially change a project.

(3) Section 514-39. Presently, this section states that if the final report for a project is not issued within one year from the date of issuance of the preliminary report, each purchaser is entitled to a refund of all moneys paid by him without further obligation. No cutoff date is established for the purchaser to exercise his option to a refund and as a result, a purchaser may receive a final report issued more than one year after the date of issuance of the preliminary report and later cancel the transaction. This can work a hardship on the developer as the exercise of the refund option may come many months after the final report was issued. The bill amends this section by establishing a cutoff date of thirty days for the purchaser to exercise his option subsequent to issuance of a final report. If the purchaser fails to act within the thirty-day period, his right to refund and cancellation of obligation shall be deemed waived.

Your Committee upon further consideration has made the following amendments to H.B. No. 2984-76, H.D. 1, S.D. 1:

(1) The proposed changes to Section 514-39 have been amended to require the copy of the final public report to be delivered to the purchaser personally or by registered or certified mail with return receipt requested. Further, the waiver of rights is effective only if the purchaser is informed in writing that his rights will be waived if he fails to act within the specified period. These amendments provide further protection to the purchaser.

(2) A section has been added to the bill amending Section 514-41, dealing with the delivery of public reports to prospective purchasers. That section presently states that a developer may not enter into a binding contract for the sale of any unit in a condominium project prior to completion of construction until, among other things, the prospective purchaser receives and executes a receipt for the final report and all supplementary reports, if any, for the project. This has led to problems in cases where a purchaser receives the required reports but refuses or neglects to execute the receipt for the reports. Technically, in such cases, the contract which has been executed by the prospective purchaser is not binding until the receipt is executed and the developer cannot be sure whether the prospective purchaser will go through with the purchase. The proposed amendment resolves the problem by providing that upon delivery of the required reports to the prospective purchaser, the purchaser will have thirty days within which to execute the receipt, after which period he will be deemed to have executed the same. In order to protect the prospective purchaser, the amendment requires that the reports be delivered either personally or by registered or certified mail with return receipt requested and that the purchaser be informed in writing of the time within which he must act.

(3) A new section has been added to the bill to make clear that its provisions operate only prospectively.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2984-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2984-76, H.D. 1, S.D. 1, C.D. 1.

Senators Nishimura, Chong, O'Connor, Young and George  
Managers on the part of the Senate

Representatives Yamada, Stanley, Takamine and Medeiros  
Managers on the part of the House

Conf. Com. Rep. No. 28-76 on S.B. No. 2501-76

The purpose of this bill is to require secondhand dealers who deal in scrap metal to keep records of purchases and sales of scrap metal which may aid in the apprehension of criminals engaged in the theft and sale of scrap metal and to make it more difficult for such criminals to dispose of stolen scrap metal by placing a duty upon scrap dealers

to refuse to purchase scrap metal which they have reason to believe is stolen.

Your Committee is concerned about the theft of scrap metal from construction sites, hardware stores, construction companies and similar enterprises dealing in scrap metal and the subsequent sale of such scrap metal by the thieves. Your Committee agrees that this is a serious problem which justifies more stringent regulation of secondhand dealers who trade in scrap metal. While your Committee recognizes that most scrap dealers are honest businessmen, testimony indicates that a major means of disposing of stolen metal is through scrap dealers. The bill requires scrap dealers to keep records of purchases and sales which may aid in the apprehension of those who engage in the theft of scrap metal and to impose a duty on scrap dealers to refuse to purchase scrap metal when they have reasonable cause to believe that it has been stolen.

Your Committee directs the attention of the Police Department to Section 830 of the Hawaii Penal Code which provides that a person commits theft if he intentionally receives, retains or disposes of property of another, knowing that it has been stolen without intent to deprive the owner of the property. It shall be prima facie evidence that a person knows the property to have been stolen, if, being a dealer in the property of the sort received, he acquires the property for consideration which he knows is far below its reasonable value.

Your Committee further directs the attention of the Police Department to Section 445-171 and 445-172, Hawaii Revised Statutes, relating to secondhand dealers.

Your Committee upon consideration of this bill recommends that it be amended by amending the findings of the legislature in Section 1 and deleting Section 2 of the bill. The term "scrap dealer" has been redefined to read as follows:

"Scrap dealer" means any person engaged in the business of buying, selling or dealing in scrap or any person operating, carrying on, conducting or maintaining a scrap yard."

Your Committee further recommends that the bill be amended to provide that every scrap dealer, when purchasing scrap within the State, shall obtain a written statement signed by the seller or his agent certifying that the seller or his agent has the lawful right to sell and dispose of the scrap. The scrap dealer shall require the seller to verify his identity by presenting proper identification. The scrap dealer shall keep the signed written statement for a period of two years after the date of purchase and the statement may be examined at any time by the director of finance or the chief of police. Any person who falsifies a statement required by Section 455-233, Hawaii Revised Statutes, shall be guilty of a misdemeanor. The effective date of this bill has been amended to July 1, 1976.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2501-76, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2501-76, S.D. 2, H.D. 1, C.D. 1.

Senators Nishimura, Kuroda, Takitani and Saiki  
Managers on the part of the Senate

Representatives Yamada, Uechi, Yap and Medeiros  
Managers on the part of the House

Conf. Com. Rep. No. 29-76 on H.B. No. 2786-76

The purpose of this bill is to establish a means whereby a court in its discretion may defer acceptance of a guilty plea ("DAG" plea) for a certain period on certain conditions with respect to certain defendants.

This would give the defendant the opportunity to keep his record free of criminal conviction, if he can comply with those terms and conditions during the period designated by court order. It is in the best interest of the State that in certain criminal cases, particularly those involving first time, accidental, or situational offenders, the offender not be burdened with the stigma of having a criminal record for the rest of his life.

Your Committee upon further consideration has made the following amendments to H.B. No. 2786-76, H.D. 1, S.D. 1:

(1) Instead of amending Chapter 706, Part 1, Hawaii Revised Statutes, amend title 38, Hawaii Revised Statutes, by adding a new chapter.

(2) Enunciate that the court may defer the proceedings for such period of time as the court

shall direct but in no case to exceed the maximum sentence allowable. Note: Your Committee anticipates that the court will establish guidelines as regards the period of deferment. In this regard, your Committee notes that the First Circuit Court has established guidelines in this area.

(3) Set out specifically and in detail: (a) how the court shall discharge the defendant and dismiss the charge against him; (b) that the defendant may apply for expungement of all recordation relating to his arrest, arraignment, indictment, information, plea of guilty, or dismissal and discharge and the exceptions thereto; (c) procedures for commencing a "DAG" plea; (d) the legal consequences of violation of terms and conditions during deferment; and (e) when the "DAG" plea chapter would not be applicable.

(4) Enunciate that discharge of the defendant and dismissal of the charge against him under a "DAG" plea besides being not an adjudication of guilt and not a conviction, is also not a civil admission of guilt.

(5) Substitute a new Sec. -2, relating to procedure for a plea of guilty under the provisions of the proposed chapter on "DAG" pleas. Under the new procedure, a plea of guilty under this chapter would be made before sentence, upon motion by the defendant, the prosecutor, or by the court on its own motion. The court would then either proceed in accordance with section -1, relating to deference of further proceedings, deny the motion and accept the defendant's plea of guilty, or allow the defendant to withdraw his plea of guilty only for good cause.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2786-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2786-76, H.D. 1, S.D. 1, C.D. 1.

Senators Nishimura, O'Connor, Taira and George  
Managers on the part of the Senate

Representatives Roehrig, Cayetano, Lee, Stanley and Santos  
Managers on the part of the House

Conf. Com. Rep. No. 30-76 on S.B. No. 1824-76

The purpose of this Bill is to require that all purchasers or lessees of state land shall pay or reimburse the State for all appraisal costs where independent appraisals are required by law or dictated by prudent management.

Under the present wording of Section 171-17, the State has been absorbing the cost of appraisals for reopenings of lease rentals, repurchases of lots, and for certain sales at public auction where prudent management dictates determination of the lease rental or sale price by independent appraisal. The proposed amendments to Section 171-17 will mandate the Board of Land and Natural Resources to have such appraisals determined by an independent appraiser and will require the lessee or purchaser to pay or reimburse the State for such appraisal costs.

Your Committee upon further consideration has made the following amendment to S.B. No. 1824-76, S.D. 1, H.D. 1. In the case of reopening of the rental to be paid on a lease under subsection (d) the lessee shall pay for his own appraiser, the board shall pay for its appraiser, and the cost of the third appraiser shall be borne equally by the lessee and the board.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1824-76, S.D. 1, H.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1824-76, S.D. 1, H.D. 1, C.D. 1.

Senators F. Wong, Hulten and Saiki  
Managers on the part of the Senate

Representatives Kawakami, Morioka, Lunasco and Fong  
Managers on the part of the House

Conf. Com. Rep. No. 31-76 on S.B. No. 2709-76

The purpose of this bill is to amend certain portions of Chapter 334, Hawaii Revised Statutes, relating to "Mental Health, Mental Illness, Drug Addiction, and Alcoholism." The amendments proposed in this bill are made pursuant to the February 24, 1976 Order on Motion for Summary Judgment of the Honorable Samuel P. King, District Court Judge for the United States District Court for the State of Hawaii in Suzuki, et al. v. Quisenberry,

et al., which declared unconstitutional Sections 334-51(a)(2) and (5), 334-53, 334-54(f), 334-71(a), and 334-73, Hawaii Revised Statutes. In addition, Sections 334-76, 334-81 and 334-86, Hawaii Revised Statutes, are amended following Judge King's finding that these sections as written and as applied were in violation of the due process clause of the Fourteenth Amendment.

Your Committee finds that other recent State, federal and Supreme Court decisions have required clarification of procedures to conform to due process requirements for involuntary civil commitment.

Under this bill with respect to the areas of emergency admission and initiation of such proceeding and involuntary hospitalization and discharge, a police officer may take into protective custody and transport to any facility designated by the director any person whom he has probable cause to believe is committing an offense due to apparent mental illness or intoxication, and appears to present an imminent danger to property, himself or others. The standard relating to probable cause of the commission of an offense offered follows current federal and State court decisions relating to this area. In addition, the officer shall make and transmit an application concerning the protective custody to some physician at the facility.

The bill also provides that upon application of any licensed physician, attorney, member of the clergy, licensed health or social service professional or any State or county employee in the course of his employment, a judge may enter an ex parte order stating that there is probable cause to believe a person meets the criteria for emergency admission. Such order may be issued orally, such as through telephone communication, or may be in writing. If such ex parte order is written, it must be issued within forty-eight hours of the application. As provided, the patient should be examined without delay and should be given such treatment as is indicated by good medical practice.

In addition, the bill provides that at any time the examining physician concludes that the patient need not be hospitalized, the patient shall be discharged immediately, unless criminal charges are pending. In any event, the patient must be released within forty-eight hours of his admission, unless he has agreed to evaluation and hospitalization, or a proceeding for court-ordered evaluation and/or hospitalization is initiated as provided in this bill.

With respect to emergency treatment of the patient by the examining physician, the bill provides that if the patient is suffering from substance abuse or is dangerous to himself, others, or to property, and is in need of care, or treatment, the physician may call the judge for an ex parte order authorizing emergency treatment or care pending petition for commitment to a psychiatric facility.

The bill also makes substantial amendments relating to admission for nonemergency treatment or supervision for a minor.

In the instance of a request for discharge of a voluntary patient who would be dangerous to himself or others, the bill provides that proceedings for involuntary hospitalization which must be initiated as described above as soon as possible, and within twenty-four hours.

In the areas of initiation of court-ordered commitments, discharge from custody of a facility, transfer of a patient between psychiatric facilities and transfer of a resident of a correctional facility to a psychiatric facility, the bill delineates the procedure which the petitioner must follow and has specified the necessary requirements which the petition and necessary papers must meet. In addition, it sets forth the categories of relatives and representatives who may file a petition for involuntary commitment.

The bill sets forth the criteria for proper notice and has conformed the area relating to service of personal notice for court-ordered commitments, discharge from custody of a facility, transfer of a patient between psychiatric facilities and transfer of a resident of a correctional facility to a psychiatric facility to the procedure for notice outlined in Section 1-401, Uniform Probate Code. Notice shall also be given in these proceedings to persons the court may designate. Moreover, as set forth in Section 802-1, Hawaii Revised Statutes, the public defender is designated the primary legal counselor to receive such notice. However, other attorneys may also receive such notice.

With respect to the period of detention, the bill provides that the psychiatric facility may detain a subject for a period of time ordered by the court not to exceed ninety days from date of admission unless sooner discharged pursuant to Section 334-76 or Section 334-74, Hawaii Revised Statutes, or unless the patient was committed pursuant to Sections 406, 411, and 607 of the Hawaii Penal Code. The bill provides that the administrator

of a psychiatric facility may discharge an involuntary patient when he is no longer a proper subject for commitment as determined by the criteria for involuntary commitment. If continued hospitalization is necessary, the administrator is required to apply to the court for an order of recommitment, and the procedure for notice and persons to receive notice as stated above shall be followed. Failure to timely notify the applicable categories of persons named above in this report may be grounds for adjournment or continuance of the hearing on the petition for involuntary hospitalization beyond the ninety-day period. Only in exceptional cases shall the court hear the petition more than ten days after the date the petition is filed.

Standards for the hearing of the petition for involuntary hospitalization have been established in the bill. A patient committed to a psychiatric facility under a temporary court order may be held for a period of not more than five days for the purpose of a diagnostic examination and evaluation. In the event the court finds beyond a reasonable doubt that the criteria for involuntary hospitalization has been met, a patient may be either admitted or retained, as the case may be, for ninety days at the psychiatric facility.

The bill provides that at the end of the ninety-day period, the patient shall be discharged automatically, except as provided in Sections 406, 411 and 607, Hawaii Penal Code, unless the facility before expiration of the period obtains a court order for his recommitment for a further period of ninety days unless sooner discharged; provided that prior to discharge of a patient, who upon admission was deemed dangerous to others or to property, notice as provided in Section 1-401, Uniform Probate Code, shall be given to those persons, except grandparents, as specified in Section 5-207, Uniform Probate Code, in the case of a minor and Section 5-309, Uniform Probate Code, in the case of an adult.

With respect to transfer of a patient between psychiatric facilities, the bill provides that proper notice must be given for either intra- or interstate transfer.

In the event of the transfer of a resident of a correctional facility to a psychiatric facility, the bill provides specific procedures for such transfer application and that a hearing with proper notice must be held by the same circuit court which sentenced the resident and the sentencing judge should preferably hold such hearing.

The bill finally provides that if a director of a facility contemplates the discharge of a person deemed dangerous to others or to property at the time of his admission, the director must send notice within ten days of the date of the contemplated discharge. Such patient may be discharged within ten days of such notice unless one of the interested persons who must receive notice files a petition to show cause to object to such release. Upon such filing of petition, the court shall hold a hearing.

Your Committee upon further consideration has made the following amendments to S.B. No. 2709-76, S.D. 2, H.D. 1:

(1) Page 2, line 2, substitute the word "evidenced" for the word "demonstrated" to conform the definition with language found elsewhere in the bill.

(2) Page 2, lines 5 and 6. Changes references from the plural to the singular.

(3) Page 3, line 12. Substitute the phrase "suffering from substance abuse" for the phrase "habituated to the excessive use of drugs or alcohol" to conform the definition with language found elsewhere in the bill.

(4) Page 5, lines 7, 8 and 9. Substitute the phrase "substance abuse and appears to be imminently dangerous to property, to self or to" for the phrase "intoxication and appears to present an imminent danger to property, himself or others" for sake of conformity.

(5) Page 6, line 1. Substitute the phrase "is mentally ill or suffering from substance abuse and "is imminently dangerous to self, others or to property; and is in need of care and/or treatment" after the word "person" for the phrase "meets the criteria for emergency admission," for the purpose of clarity.

(6) Pages 6 and 7. Subsection (b), (c), and (d) have been rearranged into four subsections for clarity. The subsections have been amended to clearly delineate the procedures involving the following situations: subsection (b), examination of a person; subsection (c), his release from emergency examination; subsection (d), further emergency hospitalization; and subsection (e), release from emergency hospitalization.

In addition, the requirement for ex parte orders for the continued treatment of emergency cases, has been amended to make it discretionary in order to permit the attending physician to administer further treatment without the possible delay pending the issuance of such

orders. If, however, an ex parte order is obtained for further treatment, an ex parte order for release must be obtained by the attending physician. It should be noted that an attending physician who has not sought an ex parte order for further treatment is not precluded from subsequently obtaining an ex parte order for release if he wishes. Moreover, also required is that if ex parte orders are obtained, they are required to be reduced to writing.

Further, this provision has been adopted as a procedure to be followed in the case of a release from emergency hospitalization in subsection (e).

(7) Page 9, lines 1 and 2. Additional language has been added to make it clear that some affirmative action must be taken by the administrator of a facility within twenty-four hours of the receipt of a request for discharge, to stay the discharge except that if the time expires on a Saturday, Sunday or holiday, the time is extended to noon of the next court day.

(8) Page 9, line 13. Additional language is added to clearly note that commitment to a psychiatric facility may not only be for the purpose of care and/or treatment but also because there is no suitable alternative available which would be less restrictive than hospitalization.

(9) Page 10. Section 334- (b)(2) has been amended to permit any person rather than certain enumerated persons to initiate court-ordered commitments to a psychiatric facility.

(10) Page 12. Section 334- (b)(3)(A) has been amended to provide for notice of a hearing on a petition for involuntary commitment to be personally served pursuant to Sections 1-401, 5-207, and 5-309 of the Uniform Probate Code or to those specified in a current order of commitment. The purpose for providing for personal service is to insure that prompt service is made to permit those served sufficient time to respond.

(11) Pages 14 and 15. The order of Sections 334- (b)(4) and (5) have been rearranged and renumbered (5) and (4), respectively.

In addition, as renumbered, Section 334- (b)(5) has been amended to clearly indicate that at the end of 90 days, any person committed shall be automatically discharged, except as provided and unless the facility initiates a recommitment procedure before the expiration of the 90 days. The purpose of the amendment is to clearly indicate that the facility must affirmatively take some action to prevent the release of a person who may not be ready for discharge.

(12) Page 18, line 5. Section 334- (b)(5)(G) has been amended to include additional language to assure the subject's Fifth Amendment right against self-incrimination.

(13) Page 19, Subsection 334- (b)(4)(I). This subsection, formerly (b)(5)(I), was amended to exclude redundant references to discharge and to include language in conformity with notice requirements found in Subsection (b)(3).

(14) Page 20, Subsection 334- (b)(6). This subsection has been amended to provide personal service of any notice of intent to discharge any involuntary patient on all persons specified by the court as entitled to receive notice. The purpose of the amendment is to insure that prompt notice of the intent to discharge a patient is received by persons noticed to enable them to take any action regarding the pending discharge. Moreover, objections must be filed with the court within three days of personal service. It is felt that the three-day requirement would provide those noticed sufficient time to take any action they may desire.

(15) Page 23, Section 334- . This section has been amended to limit persons entitled to notice before the transfer of a patient can be effectuated to only those specified by the court. The purpose of the limitation is to exclude those persons whom the court has previously determined have not shown any interest in the proceeding.

(16) Page 24, Section 6. Redundant material contained in Section 334-71 has been deleted.

(17) Page 28, Section 9. Section 334-76 is redundant and is accordingly repealed in its entirety.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2709-76, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2709-76, S.D. 2, H.D. 1, C.D. 1.

Senators Nishimura, O'Connor, Chong and Saiki  
Managers on the part of the Senate

Representatives Roehrig, Segawa, Naito, Stanley, Carroll and Santos  
Managers on the part of the House

Conf. Com. Rep. No. 32-76 on S.B. No. 75

The purpose of this bill is to reconstitute the board of paroles and pardons in order to more effectively and efficiently achieve the dual and inseparable purposes of parole, the protection of society on the one hand and the rehabilitation of the offender on the other.

The present part-time board is often frustrated in its effort to provide the necessary services demanded by the needs of the present parole system. The constraints of time, lack of technical knowledge and personal hardship on commission members arising from the time they must take from their own jobs, have hampered the effectiveness of the board.

Your Committee upon further consideration recommends that this bill be amended as follows:

(1) setting the annual salary of the chairman at \$37,500. Your Committee finds that the position of chairman of the Hawaii Paroling Authority is an extremely critical position in the criminal justice and corrections system. He is the chairman of a paroling authority that is charged with, among other things, the responsibility of determining the time at which parole should be granted; establishing rules of operation to determine conditions of parole applicable to any individual granted parole; providing continuing custody, control and supervision of paroled individuals; revoking or suspending parole; discharging an individual from parole when supervision is no longer needed; interpreting the parole program to the public in order to develop a broad base of public understanding and support; and recommending to the legislature sound parole legislation and recommending to the governor sound parole administration. To fulfill those responsibilities, the paroling authority will have to consider among other things, the risk to the community in paroling a committed person and the benefits that the committed person has secured in the correctional institution. Decisions which may have a substantial effect on various communities in the State must be made, and it is crucial that they be based on sound reasoning. Accordingly, it is imperative that a highly qualified and trained chairman be appointed. In order to induce that type of person to apply for and remain in that position, the annual compensation must be commensurate with his responsibility. Your Committee finds that an annual salary of \$37,500 is appropriate, and that a continuing review of that salary is needed to ensure the retention of a qualified person.

Your Committee also feels that the chairman should be versed in criminal law so that he can appreciate the crime for which the committed person was convicted and can suggest conditions to parole which may preclude the committed person from committing the same offense.

(2) changing the compensation of the members from 90% of the hourly wage paid the chairman to 80%.

(3) changing the mandatory requirement that all employees of the former part-time board of paroles and pardons be transferred to the newly established Hawaii Paroling Authority to a discretionary one.

(4) adding a new section which amends Section 26-14, Hawaii Revised Statutes, by removing the Hawaii Paroling Authority from the administrative control of the Department of Social Services and Housing. With this amendment the Hawaii Paroling Authority is placed within the Department of Social Services and Housing for administrative purposes only. Your Committee strongly feels that not only should the members of the Hawaii Paroling Authority be adequately compensated, but also that the Hawaii Paroling Authority should be an autonomous body, since independent decisions are desired.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 75, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 75, S.D. 2, H.D. 2, C.D. 1.

Senators Nishimura, Hara, O'Connor, Chong and George  
Managers on the part of the Senate

Representatives Roehrig, Kondo, Stanley and Medeiros  
Managers on the part of the House



Conf. Com. Rep. No. 33-76 on H.B. No. 2932-76

The purpose of this bill is to provide for a mandatory period of imprisonment for a repeat offender and deny the opportunity for parole or probation under circumstances of repeated offenses.

Your Committee finds that the high incidence of repeated offenses by previously convicted persons within the State of Hawaii presents a clear danger to its citizens. In particular, your Committee concurs that necessary steps should be taken so that any person convicted for some of the most serious and reprehensible felonies as defined by the Hawaii Penal Code be sentenced, for each conviction after the first conviction to a mandatory sentence without possibility of parole.

Your Committee upon further consideration recommends that this bill be amended by deleting Sections 707-711 (Assault in the second degree), 707-731 (Rape in the second degree), 707-732 (Rape in the third degree), 707-734 (Sodomy in the second degree), 707-735 (Sodomy in the third degree), 708-851 (Forgery in the first degree), 708-852 (Forgery in the second degree), 710-1022 (Promoting prison contraband in the first degree), 710-1040 (Bribery), (1)(d) of 712-1244 (Promoting a harmful drug in the first degree), (1)(c) of 712-1245 (Promoting a harmful drug in the second degree), and (1)(c), (f) or (g) of 712-1247 (Promoting a detrimental drug in the first degree), Hawaii Revised Statutes, from the provisions of this bill.

Any person convicted under Sections 701, 710, 720, 730, 733, 810, 840, 1241, 1242 or 1244 of the Hawaii Penal Code, who has a prior conviction for the same offense in this or another jurisdiction, shall be sentenced for each conviction after the first conviction to a mandatory period of imprisonment without possibility of parole during such period as follows: (1) Second conviction for the same offense-5 years; (2) Third conviction for the same offense-10 years. The sentencing court may impose the above sentences consecutive to any other sentence then or previously imposed on the defendant.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2932-76, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2932-76, H.D. 2, S.D. 1, C.D. 1

Senators Nishimura, O'Connor, Chong, Taira and George  
Managers on the part of the Senate

Representatives Roehrig, Kondo, Naito and Sutton  
Managers on the part of the House

Conf. Com. Rep. No. 34-76 on H.B. No. 3196-76

The purpose of this bill is to set a schedule of mandatory sentences for a person convicted of a felony, where the person had a firearm in his possession and threatened its use or used the firearm while engaged in the commission of the felony. Your committee intends to require the court, in the cases of felonies where a firearm was used, to impose a mandatory term of imprisonment.

Your Committee is in agreement that the steadily increasing use of firearms in the commission of criminal activities presents a severe degree of risk of injury to victims of criminal actions. At the present time your Committee feels that there is a need to re-examine the methods with which to discourage the use of firearms and institute strong penalties for persons convicted of such criminal activities.

Your Committee upon further consideration has made the following amendments to H.B. No. 3196-76, H.D. 2, S.D. 1:

(1) Delete the proposed amendment to Section 706-662, Hawaii Revised Statutes, and instead, amend Chapter 6 of Act 9, Session Laws of Hawaii, 1972 (Hawaii Penal Code) as follows:

1. By adding a new section which provides for a mandatory length of imprisonment of up to ten years for the use of a firearm when a class A felony was involved; a mandatory length of imprisonment of up to five years for the use of a firearm when a class B felony was involved; and a mandatory length of imprisonment of ten years for the use of a firearm where a class A or B felony was involved, and the felony conviction was the defendant's second felony offense conviction which involved the use of a firearm.

2. By amending Section 660.

Your Committee by this bill and the amendments thereto, intends to require the court in cases of felonies where a firearm was used to impose a mandatory term of imprisonment. Nothing contained in this bill should be construed as precluding (a) the court from imposing an indeterminate sentence or an extended indeterminate sentence, or (b) the Board of Paroles and Pardons from fixing the minimum term of imprisonment at a length greater than the length of the mandatory term of imprisonment provided for in this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3196-76, H.D. 2, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3196-76, H.D. 2, S.D. 1, C.D. 1.

Senators Nishimura, O'Connor, Chong, Taira and George  
Managers on the part of the Senate

Representatives Roehrig, Uechi and Carroll  
Managers on the part of the House

Conf. Com. Rep. No. 35-76 on S.B. No. 1853-76

The purpose of this bill is to amend the present law on bicycles, and bicycles equipped with a motor, with respect to: 1) limiting the minimum age of operating a bicycle equipped with a motor to fifteen years of age; 2) to prohibiting more than one person at a time on a bicycle equipped with a motor; 3) to clarifying the rights of persons riding motorized bicycles on roadways and bicycle paths; 4) and to define the safety equipment requirements on a bicycle equipped with a motor.

Presently, "Moped" riders are constantly in danger while riding on busy streets filled with many cars, because there are relatively few protective devices on a bicycle to insure the safety of the rider, there is no minimum age of responsibility required to operate these vehicles and there are people who modify the power of the motor to exceed the 1-1/2 horsepower limit. This situation results in many "moped" riders using the bicycle lanes and endangering the safety of conventional bicycle riders because of the "mopeds" superior speed.

Insuring the safety of the rider of a bicycle equipped with a motor interacting with cars and bicycles on county streets and bike paths, is the major intent of this bill.

Persons riding a "moped" on a county road will be allowed in counties with populations of less than 100,000 people. Counties with populations of 100,000 people or more will be able by ordinance to post certain bikeways to prevent persons riding a bicycle equipped with a motor from using them. Provisions for State or Federally controlled roads were not however brought into the scope of this bill, though federal regulations do stipulate that "Mopeds" in bicycle lanes on Federal Highways be prohibited.

Your Committee upon further consideration has made the following amendments to S.B. No. 1853, S.D. 1, H.D. 1:

- (1) the amended definition of "bicycle" on pages 1 and 2 has been deleted.
- (2) the "motorcycle" definition on page 3 has been amended to exclude "farm tractors".
- (3) The section: "no more than one person will be allowed to ride a bicycle equipped with a motor at a time" has been added to section 3, subsection (b) on page 3.
- (4) the provision on prohibiting mopeds in bike lanes in counties of 100,000 people or more has been added to section 4, subsection (k), page 4.
- (5) section 291C-147, subsections (2) and (3), on the safety equipment requirements on a moped have been deleted:
  - (2) "an operable stop lamp and reflective devices meeting the specifications of Federal Motor Vehicle Safety Standard Number 108"
  - (3) "the horsepower rating on its motor certified to and clearly marked on the motor by the manufacturers".

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1853-76, S.D. 1, H.D. 1, as amended herein; and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1853-76, S.D. 1, H.D. 1, C.D. 1.

Senators O'Connor, Taira and George  
Managers on the part of the Senate

Representatives Roehrig, Kondo and Carroll  
Managers on the part of the House

Conf. Com. Rep. No. 36-76 on S.B. No. 1758-76

The purpose of this bill is to make improvements in numerous aspects of the housing development program conducted by the Hawaii housing authority pursuant to chapters 356, 359, and 359G, Hawaii Revised Statutes. In addition to substantive changes, the bill contains many style changes for purposes of clarity.

Your Committee upon further consideration has amended the "buy back" section on pages 34 and 34a to allow the authority to repurchase dwelling units subject to existing mortgages by clarifying the intent and satisfying the requirements of mortgage lenders. For the purposes of clarity and consistency other non-substantive amendments have been made.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1758-76, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1758-76, S.D. 2, H.D. 2, C.D. 1.

Senators Young, Toyofuku and Henderson  
Managers on the part of the Senate

Representatives Shito, Kiyabu, Kondo and Lum  
Managers on the part of the House

Conf. Com. Rep. No. 37-76 on H.B. No. 2253-76

The purpose of this bill is to enable lessees of residential leaseholds to acquire fee simple ownership of their residential lots at a fair and reasonable price through the Hawaii Housing Authority; to enable lessees of residential leases to derive full enjoyment from their leaseholds; and to clarify the law relating to renegotiation of lease rents. The bill provides a vehicle for lessees of residential leaseholds to purchase the leased fee from lessors at a price which is just compensation to the lessor and which is fair and reasonable to the lessees.

This bill, as amended, provides for the following:

(1) An equitable method of determining the fair market value of the leased fee interest in residential leasehold properties utilizing either the income or market data approach. The fair market value of the leased fee shall be determined by whichever approach provides just compensation to the lessor and gives the greater consideration to the lessee's interest.

(2) The steps that the Hawaii Housing Authority must take before acquisition of development tracts have been clarified. Because the Authority has already made a finding of a shortage of fee simple residential properties in the counties, the need to again make the finding has been deleted.

(3) The "buy-back" provision has been amended to ensure that former lessees are equitably compensated if circumstances should require the Hawaii Housing Authority to purchase their residential properties.

(4) Provisions regarding arbitration to determine the value of the lease fee have been added.

(5) Section 519-2, Hawaii Revised Statutes, has been amended to exclude leasehold condominiums in keeping with the intent of this bill to cover only single-family residential houselots.

Upon further consideration, your Committee has made the following amendments to H.B. No. 2253-76, H.D. 1, S.D. 1:

(1) A proviso has been added to the discount rate under the income method of determining the fair market value of the lease fee. The proviso which allows the lessee and lessor to modify the statutory discount rate by mutual agreement is intended to give the parties the opportunity to use a discount rate other than the statutory rate, but only if agreed to by the lessees, lessors and the Authority.

(2) The market data approach has been reworded to clarify all of the lessee's interests which are to be deducted from the fair market value of the lot. The various lessee's interests are listed to insure that the appraiser consider and deduct each and every interest and equity of the lessees. The first of the lessee's interest to be deducted has been reworded to state as follows: "the value of the lease, including any rights therein, if any, which accrues to the lessees." Under this provision, the lessee's interest may include such things as a lessee's right to exercise an option to renew the lease, the value of the leasehold bonus, and any other rights that the lessee may have in the lease.

The second lessee's interest to be deducted relates to the percentage contribution of the lessee to the neighborhood which has enhanced the overall value of the neighborhood. Under this provision, the lessee's interest may include such things as the contributions of the lessees in the neighborhood to the development of schools, playgrounds, churches, shopping centers and other facilities which increases the desirability and value of the neighborhood.

The third lessee's interest to be deducted relates to the lessee's contribution to offsite improvements.

The fourth lessee's interest to be deducted relates to the lessee's percentage contributions to the general enhancement to the development tract by reason of his onsite improvements on his lot. Under this provision, the lessee's interest may include contribution of such things as the dwelling, trees, lawns, swimming pools, landscaping and other onsite improvements to the value of the lots in the development tract.

The fifth lessee's interest to be deducted relates generally to the premium paid by the lessee. This provision has been amended to limit the deduction to only the premium paid by the original lessee.

The sixth lessee's interest to be deducted relates to the fees and costs of transferring the interest to lessee ordinarily borne by the lessor.

A proviso has been added at the end of the list of the lessee's interest to state as follows:

"Provided, however, that the values established by any one of the foregoing provisions shall not be duplicated in any of the other provisions."

The intent of this proviso is to prevent duplicating the deduction of any of the lessee's interest from the fair market value of the lot.

(3) The arbitration provisions of the bill have been amended to make arbitration mandatory; to eliminate provisions which are inapplicable; to require that the arbitration award be rendered not less than 60 days from the date the arbitration panel is formed; and a new section is added relating to the effect of the arbitration on a subsequent condemnation proceeding.

Under the arbitration provisions, as amended, the lessor and lessee are requested by the Authority to negotiate. If negotiation fails, the Authority shall direct the parties to submit to mandatory arbitration. An arbitration award must be rendered within 60 days from the date the arbitration panel is formed. An appeal from the arbitration award may be taken to the circuit court within 30 days after the award is made.

The effect of the arbitration award in a condemnation proceeding is that the award is deemed to be prima facie evidence as to just compensation.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2253-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2253-76, H.D. 1, S.D. 1, C.D. 1.

Senators Young, Toyofuku and Henderson  
Managers on the part of the Senate

Senator Toyofuku did not sign the report.

Representatives Shito, Kiyabu, Kondo and Lum  
Managers on the part of the House

Conf. Com. Rep. No. 38-76 on H.B. No. 1499

The purpose of this bill is to effect more efficient and responsive administration and to defray the cost of the state small boating program.

It is the intent of this bill to clarify legislative intent so that the Department of Transportation can follow specific guidelines in administering and financing the state small boat harbors. Further, your Committee finds it necessary to reorganize the Harbors Division of the department of transportation to include a new branch the sole purpose of which shall be the administration of the state small boat harbors, and a comprehensive boating program.

Since small boat harbors are built for and used by boaters who moor their boats in the harbors, and facilities such as piers and catwalks are dedicated exclusively and permanently to their use, your Committee feels that these boaters should be primarily responsible for the costs of capital improvements devoted to their primary or exclusive use as well as the costs of maintaining, operating and managing the harbor facilities constructed after July 1, 1975 along with operation, maintenance and other costs to be paid solely from the boating special fund.

However, your Committee finds that Section 266-20(7) does not and cannot impair the inherent constitutional authority of the legislature in the future to appropriate and the executive branch to use general obligation bonds with debt service amortized from general funds for small boat harbors. Future legislations should be allowed in each circumstance to determine whether bonds are debt services from the special fund or from general revenues.

Under the current fee schedule, the special fund is unable to cover the added costs. Since these fees constitute the major support of the program, an increase in fees is necessary. It is anticipated that the department of transportation should move forth with a new fee schedule.

Your Committee finds it necessary to establish a fee structure in which non-state residents shall pay an application and permit fee differential. This is intended to equalize the burden of cost of constructing, operating and maintaining state small boat harbors for the state taxpayers. It is recommended that the Department adopt the requirement for resident status that the individual file a state income tax return or show other valid proof.

Your Committee decided that the optimum level of the future number of live-aboards shall not exceed fifteen (15) percent of the respective total space available as of July 1, 1976 at the Ala Wai and Keehi small boat harbors. It is the intent of your Committee that this limit apply only to those harbors where live-aboard permits are presently issued by the department of transportation. In other words, no live-aboard permits shall be issued for any other state small boat harbor except for Ala Wai and Keehi harbors.

Moorage for commercial vessels is permitted in state small boat harbors in cases where there is no commercial harbor within three statute miles. If a vessel is used for commercial purposes from its permitted mooring, the permittee shall pay in lieu of the moorage and live-aboard fees, a fee based on a percentage of the gross revenues derived from the vessel.

Your Committee further finds it necessary to require all vessels moored in a state small boat harbor to have a valid permit. All vessels applying for a permit or a permit renewal must pass an inspection of minimum requirements by a marine surveyor approved by the department of transportation. This is intended to exclude derelicts and house boats moored within state small boat harbors.

Your Committee has amended this bill to reflect the Committee's intent as stated above. Further, your committee has made the following amendments:

- (1) Eliminated the word "taxes" in Section 4 because of the opinion of the Attorney General's Office that the use of tax on live-aboards may be unconstitutional;
- (2) Changed the word "shall" to "may" in Section 4 to read "(d) the department may provide moorage space within state small boat harbors to accommodate visitors on cruising vessels", because the department felt that the use of the word "shall" in statute would, at time create a burden on state small boat harbors;
- (3) Clarified the language of the grandfather clause;

(4) Added a severability clause to be Section 9 of the bill;

(5) Reworded or rephrased throughout the bill for the purposes of style and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. 1499, H.D. 1, S.D. 1, C.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. 1499, H.D. 1, S.D. 1, C.D. 2.

Senators O'Connor, Ching, Taira and George  
Managers on the part of the Senate

Representatives Cayetano, Blair, Kawakami, Kiyabu and Ikeda  
Managers on the part of the House

Conf. Com. Rep. No. 39-76 on H.B. No. 2932-76

The purpose of this bill is to provide for a mandatory period of imprisonment for a repeat offender and deny the opportunity for parole or probation under circumstances of repeated offenses.

Your Committee upon further consideration recommends that this bill be amended by inserting in line 6 on page 1 the following:

"720 relating to kidnapping, 730 relating to rape in the first degree,"

Your Committee inadvertently omitted these two sections in the bill.

Your Committee concurs with the findings of your Committee on Conference in Conference Committee Report No. 33-76.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2932-76, H.D. 2, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2932-76, H.D. 2, S.D. 1, C.D. 2.

Senators Nishimura, O'Connor, Chong, Taira and George  
Managers on the part of the Senate

Representatives Roehrig, Kondo, Naito and Sutton  
Managers on the part of the House

Conf. Com. Rep. No. 40-76 on H.B. No. 2335-76

The purpose of this bill is to provide State assistance to residents for the renovation and rehabilitation of their existing dwelling units.

The high cost of construction materials, labor and financing which makes new housing construction prohibitive, also discourages rehabilitative efforts to existing housing units. This bill would help to alleviate the problem by providing low-interest state loans, as well as informational and technical assistance to those homeowners who would not otherwise qualify for home improvement loans for the purpose of renovating and rehabilitating existing units.

Your Committee upon further consideration has made the following amendments to H.B. No. 2335-76, H.D. 2, S.D. 2:

1. page 1, subsection (a) has been amended to reflect that the Authority may make loans to qualified residents for the purpose of rehabilitating or renovating existing housing. Loans shall not be in excess of \$10,000 and shall be issued upon execution of written contract.

Your Committee upon further investigation has determined that participation loans would be unfeasible. Of the numerous banks and other lending institutions which were queried as to the workability of such a participation loan program, all responded in the negative. Those applicants who would not ordinarily qualify for home improvement loans from these lending institutions would probably still be deemed ineligible for a loan despite the fact that the State would provide a share of such a loan. It has therefore been decided by your Committee that the State shall provide the entire amount of the loan which shall not exceed \$10,000. This would not, however, preclude the Authority from contracting with lending institutions for the servicing of such loans.

2. page 1, subsection (b) has been amended by deleting two purposes of the loans: to increase the supply of rental units available to persons of low or moderate income, and to make improvements which are experimental or innovative in nature and are necessary to meet codes or recognized standards of liveability.

Your Committee has agreed that the purpose of this bill is to provide loans for the renovation and rehabilitation of existing housing units. Since it is not your Committee's intent that such loans be used to increase the supply of rental units available to persons of low and moderate income, this purpose has accordingly been deleted.

Further, it is your Committee's intent that all rehabilitation and renovation efforts under the purview of this section be in compliance with county ordinances. Due to the uncertainty of whether experimental or innovative improvements would be in conformance with county ordinances, this purpose has also been deleted.

3. page 2, lines 3-18 have been amended to reflect that the Authority shall be responsible for providing the loans, but may use the services of banks and other mortgage lenders.

4. page 3, subsection (c) has been deleted in its entirety; however it is stated in the conference draft that loans under this section shall be available for rehabilitation or renovation of owner-occupied, single-family and duplex housing.

Your Committee has excluded multiple-unit structures or complexes from qualifying under this section. It is felt that multiple unit structures would present unique problems in the implementation of this program, and therefore would require additional research and legislation in order for it to be effectively implemented.

Further, your Committee has deleted the qualifying income requirement with the belief that such restrictions are too stringent.

5. page 4, line 12 - The words "or complex of dwelling units" have been deleted.

6. page 4, line 21 - Paragraph (6) has been replaced by the following: "Has applied for and has been refused a home improvement loan by at least one bank or other financial institution in the State."

This paragraph has been amended, as it is your Committee's intent that such loans be made only to those persons who are not able to qualify for loans from private lending institutions.

7. page 5, line 5 - Paragraph (8) has been amended to reflect that a qualified resident shall have an adjusted family income not to exceed the maximum limit established by the Authority.

Because this section would come under the purview of Chapter 359G, it is your Committee's belief that the adjusted family income be in consonance with that established by the rules and regulations for this chapter.

8. page 5 - A paragraph (9) has been added to reflect that the resident is, in determination of the Authority, able to repay the loan on term satisfactory to the Authority.

This amendment has been made to provide added surety that the resident will be able to repay the loan.

9. page 6, line 9 - Paragraph (1) has been amended by deleting all references that the Authority shall provide a share of the loan through a private lender and, further, by stating that the rate of interest shall be in conformance with section 359-30.

10. page 6, line 21 - This paragraph has been amended to reflect that the loan may, at the direction of the Authority, be serviced by commercial banks or other lending institutions in the State. The service fee shall be established by contract between the Authority and the lending institutions but shall not exceed the service fee charged by the lending institutions for similar loans made by them.

This amendment details further the servicing of loans by private lending institutions.

11. page 7, line 5 - Paragraph (4) has been deleted, as it would no longer be applicable.

12. page 8 - Subsection (j) and (k) have also been deleted as they, too, would no longer be applicable.

13. page 8 - Subsection (1) has been deleted as the Authority already has this power under paragraph 359G-4(c)(1).
14. page 8, line 22 - The words "in an amount not to exceed \$5,000,000" have been deleted.
15. Pages 9-16 of this bill have been deleted with the exception of subsection (e) which has been amended by stating that the Authority shall cause the State to issue general obligation bonds to finance loans for the rehabilitation and renovation of existing housing.
16. Other technical, non-substantive amendments have been made.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2335-76, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2335-76, H.D. 2, S.D. 2, C.D. 1.

Senators R. Wong, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yamasaki,  
Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Shito, Kiyabu, Kondo and Lum  
Managers on the part of the House

Conf. Com. Rep. No. 41-76 on S.B. 2394-76

The purpose of this bill is to establish a community development authority empowered to coordinate public and private sector efforts by developing and implementing community development plans in urban areas designated by the legislature which are deemed to be underdeveloped or blighted, and are or are potentially in need of urban renewal, renovation, or improvement.

The lack of planning and coordination in such areas has given rise to the need for urban renewal, renovation, and improvement and existing laws and the public and private sectors have either proven incapable or inadequate to facilitate timely redevelopment.

Your Committee agrees that such areas may be best developed under an overseeing authority which would create or foster regulations, resources, and plans for implementation. The authority under this bill would be responsible for administering, guiding, and coordinating the pattern of development, the scheduling of implementation, and determining the extent or nature of expenditures required of public and private agencies. The bill provides that such areas will be redeveloped under a mixed-use approach whereby various uses can exist compatibly within the same area. These uses include residential, retail, commercial, light industrial, warehousing, wholesaling, recreational uses, and public facilities.

This bill designates the Kakaako area in Honolulu as the first community development district to be planned and redeveloped by the Hawaii community development authority. The Kakaako district, centrally located in Honolulu proper, is in close proximity to the central business district, the government center, commercial industrial and market facilities, major existing and contemplated transportation routes and recreational and service areas.

Your Committee upon further consideration has made the following amendments to S.B. No. 2394-76, S.D. 1, H.D. 1:

- (1) Since Article X, Section 4, of the State Constitution provides that the "legislative power over lands owned or under the control of the State and its political subdivisions shall be exercised only by general laws", to insure compliance with that requirement the Senate version was selected as the vehicle.
- (2) Because the authority has jurisdiction statewide, the board members are appointed by the Governor and confirmed by the Senate rather than appointed by the legislative body of the City and County of Honolulu.
- (3) The term "authority" has been substituted for "corporation".
- (4) The authority's power of condemnation has been limited to the acquisition of property for public facilities.
- (5) The authority's power to guarantee mortgage loans has been deleted.



(6) The procedures for approval of the community development plan has been amended to provide that the plan be developed by the authority and approved by the Governor.

(7) The provision for construction contract awards shall be in conformity with the state competitive bidding laws.

(8) Provisions for relocation have been amended to meet the requirements of the existing state relocation law.

(9) All provisions relating to development charges, compensable regulations, and community facilities have been deleted. Under existing laws, no payment is made when downzoning occurs. Since the provision of the compensable regulations section is comparable to making payment for downzoning, the section was deleted in order not to set a precedent which may have statewide implications.

(10) The provision giving the agency management and control of all state lands within the community development district has been amended to allow the Governor to set aside public lands located within the district to the authority for its use. There are possible constitutional problems with reference to the University and Hawaiian Homes Commission lands.

(11) The revenue bond provisions have been deleted in favor of state general obligation bonds.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2394-76, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2394-76, S.D. 1, H.D. 1, C.D. 1.

Senators R. Wong, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yamasaki, Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Kawakami, Blair, Cayetano, Kihano, Kondo, Shito, Hakoda and Ikeda  
Managers on the part of the House

Representative Hakoda did not sign the report.

Conf. Com. Rep. No. 42-76 on H.B. No. 2949-76

The purpose of this bill, as amended herein, is to make amendments to two aspects of the State housing program by: (1) redefining "elderly person" as it applies to State public housing projects; and (2) increasing State rent supplement payments for elderly persons.

Chapter 359-51, Hawaii Revised Statutes, currently defines an elderly person as one who has attained the age of 65, has continuously resided in the State for at least three years and who is unable to secure safe and sanitary dwelling accommodations at a rental within his financial capabilities. The first amendment seeks to bring the definition of an elderly person into consonance with current federal legislation which defines an elderly person as an individual who has attained the age of 62; or an individual who is physically or mentally impaired to engage in any substantial, gainful activity whose condition may eventually result in death or to be of a long and continued duration; or an individual with a physical impairment which impedes his ability to live independently and is of such a nature that this impairment may improve provided more suitable housing conditions are found. Additionally, this amendment has deleted the three years residency requirement due to unconstitutionality. However, there has been added a requirement that the elderly person be a bona fide resident of the State.

The second amendment proposes to raise the rent supplement payment ceiling from \$70 to \$90 a month for elderly persons who qualify for rental assistance. This adjustment will provide relief to the elderly who are generally in greater need of rental assistance due to their relatively low fixed incomes.

The rental assistance to qualified persons, other than the elderly, would remain at a \$70 maximum.

Upon further consideration, your Committee has made the following amendments to H.B. No. 2949-76, S.D. 2:

1. page 1 - The definition for "elderly person", as provided for in SECTION 2 of H.B. No. 3230-76, H.D. 1, S.D. 1 has been added.

Your Committee deems it appropriate that this definition be added to this bill inasmuch as reference to it is made in SECTION 2 of this conference draft.

2. page 1-5 - SECTIONS 2 through 4 have been deleted.

Inasmuch as the Department of Land and Natural Resources already has the authority to dispose of public lands to the Hawaii Housing Authority at a nominal fee of \$1, as provided for in section 171-95 of the Hawaii Revised Statutes, it is felt that these SECTIONS are superfluous.

3. pages 5-8 - SECTION 5 has been deleted in its entirety.

It is the belief of your Committee that this SECTION is unnecessary in that it is already provided for in section 171-11 of the Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2949-76, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2949-76, S.D. 2, C.D. 1.

Senators R. Wong, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yamasaki, Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Shito, Kondo, Takamura and Lum  
Managers on the part of the House

Senator Yamasaki did not sign the report.

Conf. Com. Rep. No. 43-76 on H.B. No. 3230-76

The purpose of this bill is to substantially amend Part III, Chapter 359, Hawaii Revised Statutes to expand and reiterate the responsibilities of the Hawaii Housing Authority in providing housing for elderly persons.

As stated in the Findings and purpose section of this bill, the shortage of housing for elderly persons in the State remains a critical problem. This is confirmed by findings in the Comprehensive Master Plan for the Elderly prepared for the State Commission on Aging by Gordon Associates, Inc. in December, 1974, which states the following:

"A little less than one-third (28 percent) of homes owned in Hawaii are occupied by elderly persons, while one in seven rental units are occupied by those over the age of 60. Using criteria established by the U.S. Department of Housing and Urban Development (HUD), of the elderly-owned homes included in the 1970 Census, one out of every eight (13 percent) lacked plumbing, were overcrowded and were over thirty years old. This proportion is greatest for the County of Hawaii where one in every four (22 percent) elderly-owned units are classified as unsound and inadequate. (See Table 4-10)

When one examines elderly-occupied rental units, the picture is even more dismal. More than half (56 percent) of elderly-occupied units are inadequate and cost more than 25 percent of basic incomes to rent. As these criteria are used to assess the demand for additional or subsidized housing by federal and state housing planners, there is the potential for upwards of 12,000 new low-income homes and apartment units to be built in Hawaii to meet the needs of its elderly."

One factor contributing to the shortage of elderly housing is that presently, the Authority maintains no special allocation for any particular segment of individuals within the group designated as low income. Consequently, there is no amount of funding within the programs set aside especially for the elderly, despite the fact that taken in the aggregate, the elderly demonstrate that they have different needs and preferences than that of the client group served by the Authority as a whole.

This bill would alleviate the above-mentioned conditions by authorizing the Authority to do any and all things necessary and desirable to acquire, construct, reconstruct, operate and maintain housing projects for the elderly. The primary thrust of this bill is to provide funds through a newly created elderly housing fund as well as other available funds of the Authority, and through the financial assistance from the federal government. Further, this bill will provide an incentive for the counties and non-profit organizations

to assume a far more active role in elderly housing development than they have up to now.

Upon further consideration, your Committee has made the following amendments to H.B. No. 3230-76, H.D. 2, S.D. 1:

1. The contents of pages 2-19 of H.B. No. 3230-76, H.D. 2 have been added to this bill, with the following exceptions:

- a. Page 7, lines 6-10 of H.B. No. 3230-76, H.D. 2 have been deleted.
- b. Page 8, subsection (d) of H.B. No. 3230-76, H.D. 2, has been amended to provide greater flexibility in setting the rates of interest charged on loans secured and made under this part.

This proposal seeks to permit the Authority, with the approval of the Director of Finance, to set interest rates chargeable under this part after each sale of general obligation bonds of the State for the purposes of this part. Interest rates shall be established so as to produce up to but not in excess of the maximum yield permitted to the States under the arbitrage provisions of the U.S. Internal Revenue Code.

c. page 18, line 10 of H.B. No. 3230-76, H.D. 2 - The words "in the aggregate amount not to exceed \$1,000,000" has been deleted.

2. page 2 - SECTION 2 has been deleted, as it is incorporated in the conference draft of this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3230-76, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3230-76, H.D. 2, S.D. 1, C.D. 1.

Senators R. Wong, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yamasaki,  
Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Senator Yim did not sign the report.

Representatives Shito, Kondo, Takamura and Lum  
Managers on the part of the House

Conf. Com. Rep. No. 44-76 on S.B. No. 2121-76

The purpose of this bill is to amend Chapter 346, Hawaii Revised Statutes, by adding a new section which directs the Department of Social Services and Housing to pay providers of medical, dental, and other professional health care services participating in the Medicaid Program, their usual and customary fees up to the maximum which federal rules permit.

Biennial budgeting pursuant to this Act, shall be based upon the most current profile of usual and customary fees; and payments to providers during this period, shall not exceed those used as the basis for the appropriation. On even numbered years, the Director must report to the Legislature the amount of additional monies required to raise the level of payment to the prevailing profile of usual and customary fees, and shall request that such amount be reflected in the Governor's supplemental budget to the Legislature. In the event that additional funds are appropriated, the profile upon which the appropriation is based would be utilized for payment of fees for the remainder of the biennium.

Medicaid is a state administered, federally subsidized, medical assistance program which provides for comprehensive services to meet the health needs of Hawaii's welfare recipients and Supplemental Income beneficiaries, as well as low-income individuals and families who are medically needy. Presently, the program serves an average of 86,800 persons per month, at an estimated total cost of \$54,229,176 for fiscal year 1975-76. The federal matching share is 50% of the cost of medical care and services; however, matching funds are not available for medical payments made in behalf of General Assistance adult recipients and pensioners. Thus, the actual federal share in Hawaii's program is about 42% or \$23,022,851 for fiscal year 1975-76 and the State's share is 58% or \$31,276,325.

The Medicaid program provides for individual choice of service providers and to this end, the Department has enlisted the participation of licensed private practitioners, clinics, laboratories, and other sectors of Hawaii's health care delivery system. With

the exception of professional services, payment levels to these providers are at the upper limits permitted by federal regulations. The regulations currently allow states to pay participating health care professionals at their usual and customary fees up to the 75th percentile of prevailing charges. The 75th percentile is determined by distributing individual charges for specific services on a normal bell curve. However, these profiles do not reflect current charges; they reflect the prevailing charges of the year previous to the one for which the 75th percentile is being determined. With the exception of dentists, Hawaii's health care professionals are presently reimbursed for services at 75% of usual and customary fees that do not exceed the 75th percentile of prevailing charges.

In contrast to the present rate of payments to nonprofessional providers, payments to health care professionals are far below the upper limit allowed by federal regulations. The Department reported that after nine years of participation in Medicaid, they are still receiving payments somewhere near the 50th percentile, and cited this factor as being one reason why a majority of professionals limit the number of Medicaid patients they serve.

The projected cost for all professional services in 1976-77, based on the proposed increase in payments, is \$22,459,071. This represents an increase of \$4 million over the amount appropriated for the coming fiscal year, with the State's share amounting to \$2.3 million. Therefore, your Committee has amended S.B. No. 2121-76, S.D. 1, H.D. 2 by adding an appropriation for the sum of \$2.3 million, out of the general revenues of the State, for the purpose of implementing this Act during the fiscal year 1976-77.

Pursuant to the implementation of this Act, your Committee recommends that the Department of Social Services and Housing establish a viable mechanism for monitoring the participation of health care professionals in the Medicaid program, as a means of controlling program costs and undue increases in professional health care fees. Your Committee recommends further, that the Department strive for better coordination and communication with the Hawaii Medical Services Association in its efforts to control costs, and to better project program costs for budgeting purposes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2121-76, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2121-76, S.D. 1, H.D. 2, C.D. 1.

Senators R. Wong, Yamasaki, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku,  
Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Stanley, Segawa, Mizuguchi and Clarke  
Managers on the part of the House

Senator Anderson did not sign the report

Conf. Com. Rep. No. 45-76 on H.B. No. 2227-76

The purpose of this bill is to adjust the cost of safety identification decals or emblems required of motor vehicles under the jurisdiction of the Public Utilities Commission and to increase the fee for safety inspections.

Under present law, motor carriers or private carriers under the jurisdiction of the Public Utilities Commission are required to pay an annual fee of \$3 for each safety identification decal or emblem required for each of its motor vehicles. However, the 1968 Highway Safety Act, as amended, requires semiannual safety inspection of all vehicles subject to the Commission's jurisdiction. The semiannual inspection requirement means that two decals or emblems will be issued for each vehicle annually and this bill adjusts the fee for each decal or emblem to \$1.50 or a total cost of \$3 annually for each vehicle.

In addition, since the present fee of \$3 was authorized for safety inspections, the cost of inspection equipment and qualified personnel employed by inspection stations has increased. This bill increases the fee to cover increased costs and to more equitably compensate the inspection stations.

Upon further consideration of this measure, your Committee has amended H.B. No. 2227-76, S.D. 2 to set the fee for safety inspections at \$7 rather than \$6.

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

2227-76, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2227-76, S.D. 2, C.D. 1.

Senators R. Wong, Hara, Hulten, King, Kuroda, O'Connor, Taira, Toyofuku, Yamasaki, Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Yamada, Cobb, Yap and Sutton  
Managers on the part of the House

Senator Anderson did not sign the report

Conf. Com. Rep. No. 46-76 on H.B. No. 2359-76

The purpose of this bill is to make the members of the Public Utilities Commission full-time employees of the State and to provide the Commission with its own staff.

Section 1 of the bill creates a full-time Public Utilities Commission of three members to be appointed by the Governor for six year terms. The first commissioners to be appointed will serve staggered terms of two, four, and six years to insure continuity of membership of the Commission.

Because of the complexities of the regulatory process, the bill sets forth general qualifications for the commissioners in that the Governor is directed to appoint persons with experience in accounting, business, engineering, finance, law, government, or other similar fields. The salary of the chairman of the Commission is set at that of a circuit court judge with the other commissioners receiving 95 per cent of the salary of the chairman.

Section 2 of the bill authorizes the chairman of the Public Utilities Commission to hire and define the duties of the Commission's staff. The chairman is also authorized to hire a chief administrator and an attorney, both of whom would be exempt from the civil service laws.

Under the present part-time Commission, each county of the State is represented on the Commission. Because of the impracticality of providing for such representation under a full-time Commission, the bill requires the Commission to employ public utilities commission assistants to be stationed in each county with a population of less than 100,000 to insure direct access to the Commission by the citizens of such counties. The assistants will be responsible for receiving complaints from consumers and meeting with the public utilities in the respective counties to attempt to resolve such complaints. They will report directly to the Commission and the chairman of the Commission may appoint them to carry out certain investigative functions for the Commission.

The bill also removes an incongruity in the present law. Under Section 91-13, Hawaii Revised Statutes, an official who renders a decision in a contested case before an agency is forbidden to consult with any person on any issue of fact except upon notice and opportunity for all parties to be heard. This could be interpreted as preventing the Commission from consulting privately with its own staff in contested cases. The purpose of providing the Commission with its own staff would be defeated by such an interpretation and, therefore, the bill makes clear that the Commission can consult privately with its staff on issues of fact in contested cases.

Section 3 of the bill repeals Section 269-4, Hawaii Revised Statutes, which is an obsolete section dealing with the employment of an inspector to deal with radio interferences.

Section 4 of the bill amends Section 269-5, Hawaii Revised Statutes, dealing with the annual report furnished to the Governor by the Commission, by requiring a more extensive and comprehensive report of all actions of the Public Utilities Commission. In addition, the Commission is required to establish and maintain a register of all its orders and decisions for public inspection.

Section 5 of the bill authorizes the Commission to appoint any of its members as a hearing officer to hear and decide all matters except rate proceedings and matters relating to tariffs. The findings and conclusions of the hearing officer must be approved by the full Commission after notice and an opportunity to be heard is given to all parties to the proceeding.

Section 6 of the bill amends Section 269-15, Hawaii Revised Statutes, to provide that the Commission may on its own motion institute proceedings before it to remedy any

violations of Chapter 269 or any rule or requirement of the Commission. The Commission is also authorized to direct the director of the Department of Regulatory Agencies to appear in any such proceeding. The reason for the appearance of the director of the Department of Regulatory Agencies is that under the overhaul of the regulatory process proposed by this bill and H.B. No. 2375-76, the director is designated the consumer advocate to protect and advance the interests of consumers of utility services in hearings before the Public Utilities Commission.

Section 7 of the bill places the Public Utilities Commission within the Department of Budget and Finance for administrative purposes. One of the recommendations of the Legislative Auditor in his report on the operations of the public utilities program of the State was that the Public Utilities Commission be taken out of the Department of Regulatory Agencies because the decision and policy making functions of the Commission are incompatible with the consumer advocacy function of the director of the Department of Regulatory Agencies.

Section 8 of the bill amends Section 26-9, Hawaii Revised Statutes, which deals with the functions of the Department of Regulatory Agencies, to conform with the provisions of this bill by deleting the reference in that section to the Public Utilities Commission as one of the boards and commissions placed within the Department of Regulatory Agencies for administrative purposes.

Section 9 of the bill is designed to provide for an orderly transition from the present Commission to the full-time Commission. The new Commission is authorized to appoint members of the present Commission as hearings officers to continue hearing applications that are filed before the effective date of the bill when enacted into law. Appropriate powers are granted to the members appointed as hearings officers and provision is made for compensation.

Section 10 of the bill makes an appropriation for the operation of the Commission and its staff. In addition, the Director of the Department of Regulatory Agencies is directed to transfer \$94,305 of the sum appropriated to REG 103 by Act 195, Session Laws of Hawaii 1975 to the Department of Budget and Finance. This amount represents sums appropriated to the Department of Regulatory Agencies which were budgeted for use by the Public Utilities Commission. Because the Commission is being transferred to the Department of Budget and Finance, these moneys are being transferred to that department.

Section 11 of the bill provides for transfer of any employees presently serving on the Public Utilities Commission staff to civil service status.

Upon further consideration, your Committee has amended H.B. No. 2359-76, H.D. 1, S.D. 2, in the following respects:

(1) The public utilities commission assistants have been exempted from Chapters 76 and 77, i.e., they will not be under the civil service laws. This was done because it was felt that as direct representatives of the Commission their qualifications and tenure should be directly controlled by the Commission.

(2) An appropriation of \$385,252 (16) has been made for the operations of the Commission.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2359-76, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2359-76, H.D. 1, S.D. 2, C.D. 1.

Senators R. Wong, Hara, Hulten; King, Kuroda, O'Connor, Taira, Tayaofuku,  
Yamasaki, Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Yamada, Kondo, Takamine, Uechi, Yap, Carroll and Fong  
Managers on the part of the House

Senators Anderson, Henderson and Soares did not sign the report

Conf. Com. Rep. No. 47-76 on H.B. No. 3261-76

The purpose of this bill is to provide much needed support and impetus for the development of the papaya, anthurium, and other cut flowers and ornamental foliage industries which have contributed significantly to Hawaii's economic stability and which hold exceptional potential for further growth.

Your Committee upon further consideration has made the following amendments to H.B. No. 3261-76, H.D. 2, S.D. 2:

- (1) Relating to SECTION 2. Appropriation (a) (Papaya Industry):
  - . Changed the total sum appropriated for the papaya industry from \$5 to \$545,000; and
  - . Amended the amounts appropriated for the subitems thereunder.
- (2) Relating to SECTION 2. Appropriation (b) (Anthurium and other Cut Flowers Industry):
  - . Changed the total sum appropriated for the anthurium and other cut flowers industry from \$1 to \$229,000; and
  - . Amended the amounts appropriated for the subitems thereunder.
- (3) Relating to SECTION 2. Appropriation (c) (Ornamental Foliage Industry):
  - . Changed the total sum appropriated for the ornamental foliage industry from \$1 to \$150,000.
- (4) Relating to SECTION 3.:
  - . Inserted the following additional proviso to read as follows: "provided that the sums appropriated for the advertising and promotion of anthuriums, cut flowers, and ornamentals shall be expended on a nonmatching basis."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3261-76, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3261-76, H.D. 2, S.D. 2, C.D. 1.

Senators R. Wong, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, F. Wong, Yamasaki, Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Uechi, Ho, Inaba, Suwa and Hakoda  
Managers on the part of the House

Senator Anderson and Representative Hakoda did not sign the report.

Conf. Com. Rep. No. 48-76 on H.B. No. 62

The purpose of this bill is to create an executive office on aging in the office of the Governor.

Your Committee finds that such an office is necessary to eliminate the present fragmentation of service delivery functions at both the state and local levels by assigning a clear responsibility to independent agencies at both levels.

Your Committee upon further consideration has made the following amendments to H.B. No. 62, H.D. 1, S.D. 2:

1. A new SECTION 3 has been included, providing for the orderly transfer of functions, programs, officers, employees and commission members from the existing state and county bodies to those created by this bill.
2. A new SECTION 4 has been added providing for transfer of records, equipment and other personal property of the state or county commissions relating to functions transferred to the executive office on aging, the county offices, or the county policy councils.
3. The present SECTION 3 has been renumbered SECTION 5 and amended to appropriate the sum of \$40,600 to cover the cost of a) the director's salary, set by H.B. No. 62, H.D. 1, S.D. 2 at a level equivalent to the salary of departmental second deputies in order to be consistent with the salary schedule enacted in 1975; b) two additional positions, including an accountant and a program specialist IV; and c) equipment and other current expenses.
4. A severability clause, SECTION 6, has been inserted.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 62, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 62, H.D. 1, S.D. 2, C.D. 1.

Senators R. Wong, Yamasaki, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Takamura, Kunimura and Evans  
Managers on the part of the House

Senator Anderson did not sign the report.

Conf. Com. Rep. No. 49-76 on H.B. No. 639

The purpose of this bill is to ensure the continuing availability of needed services for the retarded currently rendered by the Hilo Day Activity Center for the Adult Retarded by having the State assume its ownership, and incorporating its administration and operation into the State Department of Health's community program.

Your Committee has amended this bill by providing an appropriation of \$39,959 to insure that existing levels of services which are currently being provided will continue unabated.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 639, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 639, H.D. 1, S.D. 2, C.D. 1.

Senators R. Wong, Yamasaki, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Segawa, Mizuguchi, Takamura and Amaral  
Managers on the part of the House

Senator Anderson did not sign the report

Conf. Com. Rep. No. 50-76 on H.B. No. 2022-76

The purpose of this bill is to have the Commission on Aging or the Executive Office on Aging, as the case may be, establish state policy for senior centers. The policy shall include, but not be limited to, the establishment of long range and immediate goals and objectives, state standards for the operation and maintenance of senior centers, priorities for program implementation, delineation of state and county roles relative to the administration of centers and the establishment of a monitoring mechanism.

Your Committee finds that since its development in 1968 and 1969, senior centers have proliferated throughout the State. These public and privately sponsored centers have become a gathering place where senior citizens can participate in activities which are satisfying and fulfilling and receive services that can assist them in their daily living.

Furthermore, your Committee finds that although the State does not have a network of senior centers with a coordinated system of administration and operation, senior centers have operated successfully on the neighbor island counties of Maui, Kauai, and Hawaii. On Oahu, however, a lack of coordination and leadership appears. Because of the variety of arrangements and preferences in the operation of service center programs, a clarification of the roles and responsibilities of state and county governments in this area is needed. Such a policy would allow for maximum effectiveness in administering Hawaii's senior centers.

Your Committee upon further consideration has amended H.B. No. 2022-76, H.D. 1, S.D. 1 to include an appropriation of \$2250. This figure represents the amount necessary to finance four meetings of an ad hoc committee on senior centers, to be created at the direction of the Commission on Aging, composed of three representatives each from the counties of Maui, Hawaii and Kauai and seven representatives from the city and county of Honolulu.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 202276, H.D. 1, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2022-76, H.D. 1, S.D. 1, C.D. 1.



Senators R. Wong, Yamasaki, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku,  
Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Takamura, Kunimura and Evans  
Managers on the part of the House

Senator Anderson did not sign the report.

Conf. Com. Rep. No. 51-76 on H.B. No. 1998-76

The purpose of this bill is to appropriate moneys out of the general revenues of the State for the payment of certain tax refunds, judgments and settlements, and other miscellaneous claims against the State.

Your Committee has decided to accept the House draft of this bill, with three modifications: (1) add to refund of taxes an item for \$3,406.17 for Puna Sugar Co., Ltd; (2) change the amount of settlement in Civil No. 2974 from \$778.25 to \$1,037.47; and (3) add an additional miscellaneous claim for Thelma Lindsey for \$2,250.00.

Your Committee on Conference is in accord with the intent and purpose of H.B. NO. 1998-76, H.D. 1, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1998-76, H.D. 1, S.D. 1, C.D. 1.

Senators R. Wong, Yamasaki, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku,  
Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Lunasco, Kiyabu and Lum  
Managers on the part of the House

Senators Hara, Hulten and Anderson did not sign the report.

Conf. Com. Rep. No. 52-76 on S.B. No. 1794-76

The purpose of this bill is to change the law relating to notaries public to conform the durational residence requirement with present law, to lower the age requirement to eighteen years, and to increase fees in order to cover increasing administrative costs.

Your Committee has amended this bill by deleting the amendment to the age requirement which lowers the age from 20 to 18. Your Committee notes that the age requirement for notaries was lowered from 20 to 18 by section 22, Act 2, Session Laws of Hawaii 1972. Your Committee has also inserted a comma on page 3, line 7 after the word "acknowledgement" which was inadvertently omitted.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1794-76, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1794-76, S.D. 1, H.D. 1, C.D. 1.

Senators R. Wong, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yamasaki,  
Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Roehrig, Cayetano and Sutton  
Managers on the part of the House

Senators Hara and Anderson and Representative Sutton did not sign the report.

Conf. Com. Rep. No. 53-76 on H.B. No. 1810

The purpose of this bill is to require governmental agencies to give preference to Hawaii services when purchasing services.

Under present law, governmental agencies are mandated to give preference to Hawaii products when purchasing products. This bill enlarges the preference to include purchases of services. Hawaii services is defined as services performed by a business that is wholly owned by Hawaii residents or a corporation that is incorporated in this State and all of whose directors, officers, and employees are residents of this State.

This bill gives preference to Hawaii businesses for the reasons that when a contract is awarded to a local enterprise, there is a greater likelihood that the taxes resulting from the contract will be paid to the State, that the government funds used will be retained within the local economy to provide employment opportunities, and that the quality of services can be better controlled and managed by the contracting agency.

Your Committee, upon further consideration, has made the following amendments to H.B. No. 1810, H.D. 2, S.D. 1:

(1) Added a definition of the term "services". The term is defined as the rendering of any non-professional work, labor, or activity in connection with a contract with a governmental agency in which the performances of services is the primary consideration received by the agency. Further, the state comptroller is empowered to determine what percentage of the contract is related to the performance of services, as opposed to the furnishing of materials or other non-service items, in order for the contract to qualify as a contract for services, provided that the cost of the service portion must be no less than eighty per cent of the total contract price.

(2) Added a provision to Section 103-42, Hawaii Revised Statutes, allowing the state comptroller to utilize the rules adopted for qualifying for inclusion on the Hawaii services list, instead of establishing a list, if the rules are adequate for the purpose of determining when a business is offering Hawaii services. The reason for the amendment is to allow each governmental agency to make its own determination, based on the rules adopted by the state comptroller, as to when Hawaii services are involved rather than having the state comptroller making all determinations.

(3) Added a provision giving a fifteen per cent preference to Hawaii services when services are purchased by governmental agencies.

(4) Added a provision in Section 103-45, Hawaii Revised Statutes, dealing with public works contracts, that for minor repairs, maintenance, or other service contracts meeting the definition of "services", the awarding of the contract will be based on the preference for Hawaii services.

(5) Made other changes to conform the bill to the amendments discussed above, as well as technical changes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1810, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1810, H.D. 2, S.D. 1, C.D. 1.

Senators R. Wong, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yamasaki,  
Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Yamada, Takamine and Carroll  
Managers on the part of the House

Senator Anderson and Representative Carroll did not sign the report.

Conf. Com. Rep. No. 54-76 on H.B. No. 934

The purpose of this bill is to limit the retainage allowed under a public contract.

Present laws are silent on retainage provisions in public contracts. However, retainage provisions, pursuant to which a portion of the amount due a contractor under a contract is with-held to insure the proper performance of the contract, are long accepted standard provisions in construction contracts. The current practice is to retain five to ten per cent of the progress payments due contractors under public contracts.

The provisions of this bill limit the retainage in public contracts to a maximum of five per cent of the amount due the contractor until fifty per cent of the contract is completed with no retainage allowed thereafter if progress has been satisfactory. However, if the contracting officer determines that progress has not been satisfactory, a retainage of not more than five per cent may be continued.

Your Committee, upon further consideration, has amended H.B. No. 934, H.D. 2, S.D. 1, by adding a provision authorizing a contracting officer to enter into an agreement with a contractor which will allow the contractor to withdraw from time to time, the whole or any portion of the retainage upon depositing with the contracting officer any government

bond with a market value not less than the sum withdrawn.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 934, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 934, H.D. 2, S.D. 1, C.D. 1.

Senators R. Wong, Hara, Hulten, King, Kuroda, Nishimura, O'Connor, Toyofuku,  
Yamasaki, Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Yamada, Kondo, Lee, Mizuguchi, Uechi, Fong and Hakoda  
Managers on the part of the House

Conf. Com. Rep. No. 55-76 on S.B. No. 2333-76

The purpose of this bill is to establish revolving funds for correctional facilities stores.

Your Committee has amended S.B. No. 2333-76, H.D. 1, by setting forth the proper title of the director of social services at line 11 instead of the director of the department of social services and housing, as it appears.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2333-76, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2333-76, H.D. 1, C.D. 1.

Senators R. Wong, Hara, Hulten, King, Kuroda, O'Connor, Nishimura, Toyofuku,  
Yamasaki, Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Suwa, Akizaki, Inaba, Kihano, Kiyabu, Kondo, Kunimura, Lunasco,  
Mizuguchi, Morioka, Peters, Amaral, Clarke, Hakoda, Kamalii and Lum  
Managers on the part of the House

Senator Nishimura and Representative Morioka did not sign the report.

Conf. Com. Rep. No. 56-76 on H.B. No. 942

The purpose of this bill is to provide an increase of eight per cent to the regular bonus and to the special cost-of-living bonus for those who retired prior to July 1, 1965 only.

Your Committee has modified the language contained in Section 2 of the bill to clarify our intent and has modified the sums prescribed in Section 3 of the bill to reflect the actual needs for implementation.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 942, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. 942, H.D. 1, S.D. 1, C.D. 1.

Senators R. Wong, Yamasaki, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku,  
Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Suwa, Akizaki, Inaba, Kihano, Kiyabu, Kondo, Kunimura, Lee,  
Lunasco, Mizuguchi, Morioka, Peters, Lum, Amaral, Clarke, Hakoda and  
Kamalii  
Managers on the part of the House

Representative Morioka did not sign the report.

Conf. Com. Rep. No. 57-76 on S.B. No. 1187

The purpose of this bill is to assist residents of Hawaii to obtain a dental education through bilateral contracts with dental schools in other states.

This program is similar to the WICHE program, except that the director of budget and finance will negotiate the bilateral contracts outside the WICHE area.

Your Committee has amended the bill to provide an appropriation of \$39,000 to establish the Hawaii Dental Education Plan.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1187, S.D. 2, H.D. 2 as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1187, S.D. 2, H.D. 2, C.D. 1.

Senators R. Wong, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yamasaki,  
Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Suwa, Akizaki, Inaba, Kihano, Kiyabu, Kondo, Kunimura,  
Lunasco, Mizuguchi, Morioka, Peters, Amaral, Clarke, Hakoda, Kamalii,  
Lum and Sakima  
Managers on the part of the House

Representative Morioka did not sign the report.

Conf. Com. Rep. No. 58-76 on H.B. No. 3299-76

The purpose of this bill is to provide immediate emergency relief funds to aid victims of disaster in the State of Hawaii in consonance with the emergency provisions of Chapter 209, Hawaii Revised Statutes. The supplemental appropriation which contains a provision for \$2,000,000 in disaster relief funds commencing July 1, 1976 will also be responsive to the disaster relief conditions contained in Hawaii Revised Statutes.

Your Committee upon further consideration has made the following amendments to H.B. No. 3299-76, H.D. 1, S.D. 2:

- (1) Decreased the interest rate from 6 per cent to 5 per cent a year;
- (2) Increased the appropriation from \$1.00 to \$500,000;
- (3) Provided for the appropriated sum to be available to victims of disasters which took or take place on or after December 31, 1975.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3299-76, H.D. 1, S.D. 2, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3299-76, H.D. 1, S.D. 2, C.D. 1.

Senators R. Wong, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, F. Wong,  
Yamasaki, Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Suwa, Peters and Clarke  
Managers on the part of the House

Conf. Com. Rep. No. 59-76 on S.B. No. 2745-76

The purpose of this bill is to extend the state program for the unemployed until June 30, 1977, and to extend the applicability of the programs on first priority to unemployed persons whether or not they are heads of households who are underemployed. The bill also extends chapter 87, Hawaii Revised Statutes, benefits to program participants.

Your Committee has amended this bill as follows:

- (1) A new section 1 has been added to amend the definition of "head of household". As the definition presently reads it is stated in the masculine and a head of household could be a woman. To eliminate the possibility of sex discrimination from appearing and to prevent possible loss of federal revenues for this or other state programs, the definition has been amended to eliminate the use of the masculine pronoun "he" and the word "wife", and the words "individual" and "spouse" have been inserted.
- (2) Page 3, line 5, has been amended to add at the end of the sentence the words "nor higher than \$10,000 a year". This provision has been added because the jobs provided under this program are of a temporary nature and it is expected that persons in this program will find other employment before the wage maximum of \$10,000 a year is reached. This limit places a desirable control over these temporary employments.
- (3) Page 3, line 9, has been amended to insert the words "collective bargaining" to clarify that these temporary hires are not included within the public employees collective bargaining law.

(4) Page 3, line 22, and page 4, line 13, have been amended to reflect the insertion in the law of the word "the" by underlining such word.

(5) Page 4, line 23, has been amended to substitute the word "encumbered" for the word "used" for clarification purposes.

(6) The appropriation in section 5 renumbered section 6 has been reduced from \$16,000,000 to \$12,000,000.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2745-76, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2745-76, S.D. 1, H.D. 2, C.D. 1.

Senators R. Wong, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yamasaki, Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Suwa, Akizaki, Lee, Inaba, Kihano, Kiyabu, Kondo, Kunimura, Lunasco, Mizuguchi, Morioka, Peters, Amaral, Clarke, Hakoda, Kamalii and Lum  
Managers on the part of the House

Senators Hara, Henderson and Soares and Representative Morioka did not sign the report.

Conf. Com. Rep. No. 60-76 on S.B. No. 2226-76

The purpose of this bill is to allow employees of the former Puunene Hospital on Maui and the former Waimea Hospital on Kauai to purchase their previous service with these institutions for purposes of retirement under the State retirement system.

Presently there are 23 former employees of the Puunene Hospital who are affected and who have an average of about 6 1/4 years of former service which is purchaseable. About ten employees of the Waimea Hospital, with an average purchaseable service of eight years, are involved.

Your Committee has corrected an underlining error in this bill. The words "Puunene Hospital and Waimea Hospital, Waimea, Kauai" on page 3, lines 11 and 12 are underlined.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2226-76, S.D. 1, H.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2226-76, S.D. 1, H.D. 1, C.D. 1.

Senators R. Wong, Yamasaki, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Suwa, Akizaki, Inaba, Kihano, Kiyabu, Kondo, Kunimura, Lunasco, Mizuguchi, Morioka, Peters, Amaral, Clarke, Hakoda, Kamalii and Lum  
Managers on the part of the House

Senators Kuroda, Young and Henderson and Representative Morioka did not sign the report.

Conf. Com. Rep. No. 61-76 on H.B. No. 2001-76

The purpose of this bill is to amend Act 197, Session Laws of Hawaii 1975 to provide additional funds to the Judiciary operating budget for fiscal year 1976-77 and supplemental funds for the Judiciary capital improvements budget in the same fiscal year.

Your Committee has made the following amendments to H.B. No. 2001-76, H.D. 2, S.D. 2,

(1) Reestablished full funding of personal services costs as originally requested by the Judiciary.

(2) Amended item No. 6 in Section 3 by adding \$28,080 to provide for security guard service on a contractual basis for the jurisdictions of Wailuku, Maui; Hilo, Hawaii; and Lihue, Kauai.

(3) Included an appropriation of \$4,675,000 for capital improvements projects in fiscal year 1976-77.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2001-76, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2001-76, H.D. 2, S.D. 2, C.D. 1.

Senators R. Wong, Yamasaki, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Suwa, Akizaki, Inaba, Kihano, Kiyabu, Kondo, Kunimura, Lunasco, Mizuguchi, Morioka, Peters, Amaral, Clarke, Hakoda, Kamalii and Lum  
Managers on the part of the House

Senators Kuroda, Young and Henderson and Representative Morioka did not sign the report.

Conf. Com. Rep. No. 62-76 on H.B. No. 1997-76

The purpose of this bill is to amend the real property tax law provisions relating to the dedication of land for residential use.

This bill extends the residential dedication to any fee simple owner, by eliminating the age restriction, and by allowing parcels for single family dwelling residential use, size to be so dedicated within hotel, apartment, resort, commercial, or on industrial districts.

The term of the period is clarified, and automatic renewal for ten year periods is authorized. The cancellation procedure no longer requires five year notice but may still be exercised by either the owner or the director of taxation. The penalty provisions are also revised to fix the date of retroactive assessments and the percentage penalty is raised from "eight" to "ten". Section 246-12.3, Hawaii Revised Statutes, is accordingly amended, and Sections 246-12.4 and 246-12.5 are repealed.

Your Committee has amended this bill to delete the 10,000 square feet lot size limitation on land area that can be subject to dedication. Any changes in the use of the dedicated lands will subject the lands to the penalty provision, thus minimizing the need for the 10,000 square feet limitation.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1997-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1997-76, H.D. 1, S.D. 1, C.D. 1.

Senators R. Wong, Yamasaki, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Kunimura, Inaba and Amaral  
Managers on the part of the House

Senators Kuroda, Young and Henderson did not sign the report.

Conf. Com. Rep. No. 63-76 on S.B. No. 1191

The purpose of this bill is to affirm county authority to enact improvement district ordinances for the making and financing of special benefits and improvements in the county.

Under present provisions, the bond counsel for the counties has suggested that the enactment of improvement district ordinances pursuant to county charter may be subject to question. The intent of this bill is to remove this doubt by providing for specific authorization under general law applicable to all counties for the enactment of improvement district ordinances.

This bill also provides that prior ordinances for special benefits or improvements and assessments are expressly ratified, validated, approved, and confirmed by the legislature.

Your Committee has amended this bill by amending section 1, adding a new section to the Hawaii Revised Statutes relating to improvement by assessment, to provide that such section only relates to improvements by assessment and therefore language relating to special benefits has been eliminated.

Page 2, line 10 has been amended by changing the word "thereof" to "hereof" for the purposes of clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1191, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1191, H.D. 2, C.D. 1.

Senators R. Wong, Hara, Hulten, Kuroda, King, O'Connor, Toyofuku, Yamasaki,  
Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Suwa, Akizaki, Inaba, Kihano, Kondo, Kunimura, Lunasco,  
Mizuguchi, Morioka, Peters, Amaral, Clarke, Hakoda, Kamalii, Lum,  
and Kiyabu  
Managers on the part of the House

Senator Henderson and Representative Morioka did not sign the report.

Conf. Com. Rep. No. 64-76 on H.B. No. 2237-76

The purpose of this bill is to amend the state income tax law by (1) adding a definition to cover the term "without regard to source in the State," and (2) making adjustments in the excise tax credit schedule.

This definition is necessary for the term "without regard to source in the State" appears frequently in the income tax law and the addition of this definition will serve to clarify the term as it is used in the law.

With regard to the excise tax credits, your Committee was concerned with the plight of the many members in the hard-working poor of the community in the low income brackets. In the under \$5,000 category, the state tax department reported in 1975, that there were 142,753 claimants as against the next category (\$5,000 to under \$6,000) in which the claimants number 24,056. Your Committee agrees that the many persons in Hawaii in the lower income categories, especially the elderly on fixed income, need further relief.

Your Committee therefore recommends that the amount of credit in the first four categories be increased to provide this relief. Your Committee approves this amendment to Section 235-55.5 to increase these four categories accordingly: \$30 to \$40; \$28 to \$32; \$26 to \$28; and \$24 to \$26. Your Committee also recommends that persons 65 years of age and older be allowed to claim a double excise tax credit and that the adjusted gross income cut-off for the excise tax credit should be increased from \$15,000 to \$20,000.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2237-76, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2237-76, S.D. 1, C.D. 1.

Senators R. Wong, Yamasaki, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku,  
Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Suwa, Mizuguchi and Kamalii  
Managers on the part of the House

Senators Kuroda, Young and Henderson did not sign the report.

Conf. Com. Rep. No. 65-76 on H.B. No. 682

The purpose of this bill is to lapse certain general fund appropriations which are unencumbered and which have not yet been lapsed by law.

Your Committee finds that in prior acts of the legislature, appropriations have been made for which there remain appropriations and appropriation balances which are unencumbered. The existence of these inactive appropriations obscures the true general fund position of the State. This is because the general fund balance at any point in time includes all appropriations, irrespective of whether the appropriation is being expended or not.

Your Committee has amended the bill by correcting the figures, resulting in a total of \$851,866.59 to be lapsed.

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

682, H.D. 1, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 682, H.D. 1, S.D. 1, C.D. 1.

Senators R. Wong, Yamasaki, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Suwa, Akizaki, Inaba, Kihano, Kiyabu, Kondo, Kunimura, Lunasco, Mizuguchi, Morioka, Peters, Amaral, Clarke, Hakoda, Kamalii and Lum  
Managers on the part of the House

Senators Kuroda, Young and Henderson and Representative Morioka did not sign the report.

Conf. Com. Rep. No. 66-76 on S.B. No. 2827-76

The purpose of this bill is to appropriate moneys for the repair and maintenance of state-owned or controlled properties.

Your Committee finds that it is the responsibility and obligation of the State to repair, maintain, and renovate its public buildings and facilities. In addition, your Committee finds that the present lapse in the state economy has raised the unemployment rate for the construction industry to twice that of the work force as a whole.

Your Committee has, therefore, provided the necessary funds to fulfill the government's responsibility for the maintenance, repair, and renovation of public buildings and facilities by contracting with private firms in the construction industry to perform these services. To effect this, your Committee has appropriated \$15,000,000 as follows:

- (1) \$10,554,242 to the department of accounting and general services,
- (2) \$1,208,921 to the Hawaii housing authority,
- (3) \$2,435,000 to the department of health, and
- (4) \$801,837 to the University of Hawaii.

Of the amount appropriated to the department of accounting and general services, your Committee requests the comptroller to use \$100,000 for the purpose of repairing and renovating the Marks estate--Kaahaaina. Members of your Committee have visited the estate and were very impressed with its lovely setting, the grounds, and the building itself. The estate seems desirable for a governor's mansion. The comptroller is requested to report to the next legislature on the feasibility and desirability of using the Marks estate as a governor's mansion. In preparing the report, the comptroller should consult with present and past governors and first ladies.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2827-76, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2827-76, S.D. 1, H.D. 2, C.D. 1.

Senators R. Wong, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yamasaki, Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Suwa, Akizaki, Inaba, Kihano, Kiyabu, Kondo, Kunimura, Lee, Lunasco, Mizuguchi, Morioka, Peters, Amaral, Clarke, Hakoda, Kamalii and Lum  
Managers on the part of the House

Senators Kuroda and Anderson and Representative Morioka did not sign the report.

Conf. Com. Rep. No. 67-76 on H.B. No. 2987-76

The purpose of this bill is to appropriate or authorize, as the case may be, moneys to fund all collective bargaining cost items in the contracts negotiated with the bargaining representatives of ten bargaining units, and the salary increases and other adjustments for the excluded employees.

Your Committee has amended this bill to appropriate funds to the Executive and the



Judiciary to cover the collective bargaining cost items negotiated in contracts with the exclusive bargaining representatives of bargaining units 2, 3, 4, 6, 7, 8, 9, 10, 11, and 13, and of certain other officers and employees excluded from these bargaining units. \$12,218,794 in general funds, \$2,566,234 in federal funds, and \$3,931,362 in special and other funds are appropriate or authorized for fiscal year 197677.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2987-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2987-76, H.D. 1, S.D. 1, C.D. 1.

Senators R. Wong, Yamasaki, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Suwa, Akizaki, Inaba, Kihano, Kiyabu, Kondo, Kunimura, Lunasco, Mizuguchi, Morioka, Peters, Amaral, Clarke, Hakoda, Kamalii and Lum  
Managers on the part of the House

Representative Morioka did not sign the report.

Conf. Com. Rep. No. 68-76 on H.B. No. 2100-76

The purpose of this Supplemental Appropriations Bill is to make appropriations for the 1975-77 fiscal biennium and authorize the issuance of bonds.

#### MAJOR ECONOMIC AND FISCAL ISSUES

Unemployment. The latest unemployment figures for Hawaii showing the unemployment rate to be 9.3 percent, the highest in 27 years, make it painfully obvious that the unemployment problem continues to be serious. Moreover, it illustrates that even with the initiation of State employment programs made possible through appropriations in the 1975 session, conditions are worse than those a year ago, when the unemployment rate stood at 7.7 percent. It is speculative how much worse off the State would be today had there been no legislative initiatives last session, but it is probably safe to say that without State action, the unemployment slide might have been even deeper.

The costs of unemployment have been extremely expensive, both in terms of lost labor and production and in terms of direct costs to government and employers for support payments to the jobless. Regular unemployment insurance payments have been trending inordinately high and, as might be expected in periods of high joblessness, there has also been a significant impact on public assistance costs. Moreover, there are real social costs to the individuals who are unemployed: a lower standard of living, education foregone, health care not obtained, career plans curtailed, disruption of families, and other hard-to-measure social costs which nonetheless weigh heavily on the jobless.

Normally, sustained recessionary conditions at the national level which have an impact on employment in the individual states are problems which the federal government is better equipped to solve through its vast fiscal and monetary powers. However, national policies have fallen far short of bringing about full economic recovery, let alone solving the unemployment problems in the individual states. The federal government has been slow to act on the expansion or continuance of national employment programs, even though at least the same level of national effort will be required if employment conditions are not to deteriorate in this State--as well as others. A job for every person who is willing and able to work is a policy which requires a massive commitment by the federal government toward economic recovery measures and direct employment programs. Such a commitment is uncertain at this time, and your Committee has had to proceed with no knowledge whether this State will be assisted by federal action.

While State action and resources are limited in comparison to the vast fiscal and monetary powers of the federal government, your Committee believes that State government should assist in every way that it can to prevent unemployment from deteriorating even further. Last session, the legislature enacted Act 151, which provided for a comprehensive State program for the unemployed and funded the program through an appropriation of over \$12 million, including over \$11 million for public service jobs. The program will be sustained and expanded by making available some \$12 million for public service jobs and other employment programs.

Direct employment programs are to be complemented by funds to assist in the recovery of the ailing construction industry. Of all of the segments of the local economy, the

construction industry has been one of the hardest hit by recessionary conditions, and its jobless rolls are distressingly high. To counter the decline in private construction, the State program for the repair and maintenance of public facilities will be expanded and accelerated through additional appropriations which will make available some \$15 million to stimulate the industry over the short term. This action is being taken because repair and maintenance activities are labor-intensive; they involve trades sharply affected by unemployment; the program itself has not received the attention it should, particularly with respect to the protection of public investment through preventive maintenance; and the program can be accelerated quickly without the longer lead time required for major construction projects.

Tax Relief for Homeowners. Rising real property valuations and inequities in tax assessments, in combination with other factors, such as inflation and the high cost of living, have resulted in growing discontent among Hawaii's real property taxpayers, especially homeowners. The real property tax has been regarded as a regressive form of taxation since it has no direct relationship to each property owner's ability to pay the tax. Its inequity is best illustrated by the homeowner on a fixed income who is faced with an increase in property taxes. Unlike the owner of other classes of property, such as apartments and hotels or commercial and industrial property, the person who lives in his own home cannot shift the burden of the real property tax to anyone else. And if he continues to live in his own home, he is taxed for an increasing economic value assigned to his home even though he does not receive that value.

This session of the legislature has recognized that the problem faced by the homeowner is a real and growing one. Already enacted into law is Act 6 which provides for real property tax relief through the increase of the home exemption from \$8,000 to \$12,000. In addition to relief for homeowners generally, the increase in the home exemption will greatly benefit the elderly, since those over 60 are entitled to a multiple of two times the regular home exemption and those over 70, two and one-half times the regular home exemption. The higher home exemption should provide some relief to homeowners or at least cushion the homeowners from increases in assessments.

State Financing Policies. The State's total outstanding debt is now in the neighborhood of \$1 billion. Debt service costs, the periodic amounts required to pay principal and interest to bondholders, have nearly tripled from \$35 million in fiscal year 1970-71 to \$92 million in the current fiscal year. By fiscal year 1980-81, the Department of Budget and Finance estimates that debt service costs will increase to \$163 million.

These indicators of the magnitude of the State's debt clearly call for prudence and restraint in authorizing new capital investments which require financing through the issuance of general obligation bonds. There are timely lessons to be learned from the fiscal problems which befell New York City last year--problems attributable to that city's excessive borrowing policies. The State of Hawaii currently enjoys a favorable credit rating in the municipal bond market. However, that rating could be affected and borrowing costs could soar if the State's debt gets out of hand. Such a condition should not be allowed to develop. It is your Committee's belief that fiscal restraint needs to be exercised to limit the growth of the State's debt and the associated debt service costs.

Over the near term, the financial outlook is such that the State can apply some cash financing for capital investment. It is expected that some \$30 million in general fund cash will be allocated to capital expenditures.

Beyond the immediate action of substituting cash for borrowing where possible, it is clear that more analysis needs to be done in the area of financial policies and management. Among the issues which should be examined are the economics of pay-as-you-go (i.e., cash) vs. pay-as-you-use (i.e., borrowing) policies; the effects of debt management on cash management and vice versa; the debt service capacity of the State; the effects on short-term investments when general fund cash is advanced for capital expenditures; the increasingly large pool of authorized but unissued debt; and looking ahead to the possible call of a Constitutional Convention, the principles which might guide changes to the existing constitutional provisions governing the debt limit and the authorization and issuance of debt. These issues should be examined by the legislature, and the legislative auditor is requested to assist in that examination through a study of the State's financial management policies and practices.

#### SUPPLEMENTAL BUDGET CONCERNS AND FOCUS

Act 195, Session Laws of Hawaii 1975, generally provided adequate funds to meet the financial needs of the State for the fiscal biennium 1975-77. However, there were certain areas where budgetary adjustments or supplementation are required to meet

changing needs and circumstances anticipated during the second half of the biennium.

It is to address these needs and concerns that this bill has been formulated. Your Committee believes that the appropriations herein provided are proper and meritorious and that they reflect the legislature's concerns for the social and economic well-being of Hawaii.

Highlights of the provisions of this bill follow:

#### Economic Development

Tourism. Your Committee suggests several program adjustments intended to maintain the long range quality of the tourism industry. These changes make up a coherent strategy for dealing with tourism in the future. A 10-year growth plan for the tourism industry has been funded. In addition, a permanent staff of five persons has been included within the Executive branch to conduct continuing research and planning for tourism. There is to be maximum coordination between these new research activities and the ongoing research within the Hawaii Visitor's Bureau.

Agriculture. Diversified agriculture has long been a major goal of the State. Your Committee has provided funds to support various programs and activities in furtherance of this goal. Particular attention has been placed on aiding the cattle industry and the growing, processing and marketing of papaya, avocado and banana. To ease the credit problems of farmers, appropriations have also been included for the Young Farmers program statewide; feasibility study on the establishment and operations of a farmer's market at Fort Armstrong; and evaluation of alternative pesticides for ant control in pineapple culture.

Aquaculture and Mariculture. Hawaii, as an island state, is confronted with a tremendous potential for growth in ocean-related economic activities. That potential has not been realized to the fullest extent possible. Your Committee believes that a far-sighted commitment should be made now so that the potential may be realized in the future. Accordingly, funds are provided for the support of mullet and shellfish (particularly oyster) development which may lead to new industries for the State in these two products. In addition to being a possible food fish, the mullet development may also lead to its becoming available as a bait fish for the local tuna fishing industry. Funds are also appropriated for an economic assessment of aquaculture and a master plan for the development of the areas of greatest potential.

#### Health

Services for the Developmentally Disabled. It is a matter of great legislative concern to not only maintain but upgrade and improve services for the developmentally disabled. Consequently, we are in support of the need to upgrade the Department of Health's inpatient facilities, treatment, and community-based services for the developmentally disabled.

As a first step in this direction, your Committee has increased the staffing of Waimano Training School and Hospital towards meeting the accreditation standards by the Joint Commission on Accreditation of Hospitals to be eligible to qualify for federal contributions available under Title XIX of the Social Security Act for ICF MR care. It is the intent of your Committee to continue to support the decentralization of Waimano by providing the required resources to maintain and improve community-based programs on a statewide basis.

In order to prevent or minimize the effects of developmental disabilities, your Committee fully recognizes the necessity and treatment program in this area and has, therefore, increased the staffing for these programs on a statewide basis. We have also appropriated sufficient funds to the Genetic Laboratory at Children's Hospital.

School Health Services. Funds have been appropriated to provide health services for all public elementary schools in the State by the end of the 1975-77 biennium, fulfilling the original intent of the School Health Pilot Project and establishing the necessary services for prevention and detection of sensory deficiencies.

State Health Planning. Your Committee realizes the implications of the recent waiver by the Secretary of the U.S. Department of Health, Education and Welfare which granted to the State of Hawaii the authority to implement the provisions of P.L. 93-641. Therefore, sufficient funds have been provided to the State Health Planning and Development Agency, administratively assigned to the Department of Health for such implementation.

Environmental Health. With respect to Hawaii's drinking water, the required resources are provided to initiate an expanded drinking water program inclusive of

surface as well as underground water controls. Federal funds are available from P.L. 93-523, the federal "Safe Drinking Water Act" for this purpose.

Appropriations have also been made to provide on-call psychiatric services for West Hawaii Mental Clinic; provide for contractual services for activity center and outreach programs for mentally retarded adults at Lahaina; provide for ambulance service in South Kohala and contractual services for private ambulance service on Molokai; continue family planning services; provide for the bilingual health aide program statewide; and purchase mammographic machines for breast cancer detection.

The health appropriations also include grants-in-aid to Molokai Hospital, Kahuku Hospital, Kauaikeolani Children's Hospital Poison Information Center, G. N. Wilcox Memorial Hospital, the Hawaii Committee on Alcoholism Industrial Occupational program, the St. Francis Halfway House for Women, and to the Kauai Youth Outreach Substance Abuse Coordinator.

### Social Problems

Welfare Payments. The Department of Social Services and Housing is plagued by high error rates both in determining eligibility of welfare claimants and in calculating welfare payments to DSSH clients. This continues to be a major problem and unless corrected will jeopardize receipt of federal funds. The high error rates stem from the high case-load assigned to each line case-worker. Your Committee has provided positions and funds to correct this problem.

Housing. The Hawaii Housing Authority's sole request is an appropriation to supplement the Development Revolving Fund. The DRF lends "start-up" money to non-profit private corporations for the purpose of planning, designing, studying, and initiating low-cost housing projects. The supplementary appropriation accounts for the inflated costs of initiating present construction.

Elderly. Particular attention was paid by your Committee to the needs of the elderly in our community. Separate legislation is expected to be enacted to establish an Executive Office on Aging which will develop, promote and coordinate programs for the elderly. A supplemental appropriation has been made to the Commission on Aging for it to coordinate and fund a wide range of programs, including Areawide Opportunities, North Shore Congregate dining, multiphasic health screening, and higher education for the elderly.

Appropriations have been made for the expansion of the nutrition program for the needy elderly in Kauai County; continuation of the Waianae Coast Congregate dining program; a demonstration Outward Bound program for youths in the Progressive Neighborhood areas; grant-in-aid to Operation Kokua, Inc., Day Care Center; grant-in-aid to Kaumana Elderly Care Center; and grant-in-aid to the Kalihi-Palama Immigrant Service Center.

Appropriations have also been included for the establishment of a Tenant Security Guard program using the residents at Kuhio Park Terrace; continued operation of the Waianae Coast Rap Center; grant-in-aid to Hale Opio, Inc; one-year extension of the demonstration elderly day care facility on the grounds of Wilcox Memorial Hospital; grant-in-aid to the Salvation Army for the operation of the Hilo Interim Home; operation of the inter-agency council at Kuhio Park Terrace; and operation of the Alternatives for Youth Project of the Kalihi YMCA.

It is the legislature's intent that the Department of Social Services and Housing improve the administration and function of its programs. The department should pay particular attention to the administration and operation of the Food Stamp and General Assistance programs. Policies and procedures should be reexamined and revised as necessary, and worker input should be secured. The legislature intends that the department extend its quality control efforts to the General Assistance program and has appropriated the necessary funds. To improve the administration of the Medicaid program, the department is requested to work cooperatively with the providers, the fiscal intermediary, and the Department of Accounting and General Services, especially to improve the billing process.

It is the legislature's request that the department integrate Title XX funds into its future budget presentations and that the department also review the implementation of the Comprehensive Social Service State Plan. The department should make every effort to work with the Department of Health, Education and Welfare to improve and simplify the administration of Title XX programs.

### Education

Appropriations have been made for additional teams of art, music, and physical education specialists to be placed in the seven school districts; the responsive education program of Central Intermediate School and Nuuanu Young Men's Christian Association; additional library books for deficient school libraries, including Kaiser High School and Maui High School; the Blue Water Marine Laboratory; a law enforcement awareness program in the high schools directed at counseling troubled youths; a pilot project to provide services to students with learning disabilities; a special education summer school program; and a pilot project for independent living involving retarded children.

In addition, funds have been appropriated for alternative education programs, including school within a school, Pahoehoe High corrective reading, Nanaikapono Preschool, Molokai Alternative School, and Kalakaua extended project; support of language schools; external evaluation of the 3-on-2 program; renovation of artmobiles; a Language Arts Coordinator to lead the efforts of reading specialists at the district level; a program for the intellectually and artistically gifted and talented; counseling and guidance resource teachers to be placed in the seven school districts on a contractual basis; and contractual diagnostic services and follow-up treatment for regular and special education students.

Funds have also been appropriated for a water safety program; the field test of teacher evaluation programs; purchase or repair of band instruments; reading specialists on a contractual basis to be placed in the seven school districts; books for public libraries, statewide; and positions for Makiki and Kalihi libraries.

### Higher Education

Among the appropriations made are those for custodial services and security guard services at Windward Community College; additional equipment for the trade and vocational programs at Hawaii Community College; and supplemental funds for instruction in the nursing program at Hawaii Community College.

In addition, appropriations have been made for Project RISE (Resources for Individuals Seeking Education); the Canada-France-Hawaii Telescope Corporation; banana research and development for production and marketing, including nematode control, handling, storage, and packing; a 4-H Youth Development agent for Maui County; a termite control program; public services programs of the college of continuing education program; and the Continuing Education for Women (CEW) program.

Other appropriations include those for the comprehensive training program (university without walls); non-income-generating sports at the Manoa campus; additional staff support in the cooperative extension service office on Molokai; improvement of fumigation methods to eliminate fruit flies in avocados; expansion of the department of architecture; the Hawaiian Studies program; student-help pay; the sports program at the University of Hawaii at Hilo; the college-work-study program; continuation of the operations of the Pacific and Asian Affairs Council; and continuation of the pre-admissions program for disadvantaged groups which are underrepresented in the Hawaii bar and to monitor the progress of these students at the Law School, with the expectation that this program shall provide assistance to those who are undergraduates and who might be potential Law School applicants.

### Culture and Recreation

Public Television. Your Committee recognizes the valuable service provided by Hawaii Public Television and has appropriated funds to provide for improvement and expansion of the program. These funds will be utilized to replace existing transmitter facilities, extend broadcast time by two hours per day and continue the production of the series "Rice and Roses". Although your Committee finds merit in the concept of establishing a Public Radio program, it is believed that this item should be deferred until the 1977-79 biennial budget is considered.

Support for Culture and Arts. Among the appropriations made are funds for support of the Honolulu Symphony, Statewide Touring Arts Program (LYCEUM), the Honolulu Community Theater, the Philippine Heritage program, the King Kamehameha Celebration Commission, and the Bishop Museum.

### Individual Rights

Public Utilities. Your Committee is concerned with the increased complexities in the area of regulating public utilities. The legislative auditor, in his report on the Public Utilities Division of the Department of Regulatory Agencies, noted several

deficiencies on the organization and staffing of the Division. The report also pointed out areas of conflict between the Public Utilities Division and the Public Utilities Commission. Included in the auditor's recommendations to correct these deficiencies and conflicts were those to provide additional staff for both organizations. Legislation is expected to be enacted for the establishment of a full-time Public Utilities Commission with permanent staffing. To complement this action, supplemental funds and positions have been appropriated which is intended to provide the Public Utilities Division with the necessary resources to adequately represent the consumer in matters relating to public utilities.

Legal Aid Society. Your Committee has provided funds to the Legal Aid Society to supplement federal and other funds with the proviso that in the event additional non-State funds become available (other than funds for special projects or programs) the State funds will be correspondingly reduced. The State funds thus provided should be adequate to maintain the level of legal services being provided to the poorer members of our society. It is your Committee's understanding that the Legal Aid Society plans to expand its outreach services and also to provide special legal assistance to the elderly.

Public Safety. With respect to policies and conditions at Hawaii State Prison, one of the most pressing concerns of inmates is their low wages. In order to provide a more humane and realistic wage schedule, funds are appropriated to increase the average of 12 cents an hour to a more reasonable 50 cents an hour.

#### Government-Wide Support

Elections. In order to comply with Federal law requiring the provision of ballots and other election materials in languages other than English for the convenience of minority group voters, your Committee has approved the supplemental appropriation for the Lieutenant Governor's Office for this purpose.

Overall State Planning. Your Committee recognizes the need for continued overall State planning. The \$250,000 appropriated by the last legislature for preparation of a new State Plan has been supplemented by additional funds to ensure that resources are adequate to complete this important undertaking and to match federal funds available under the State's Comprehensive Planning Program. Finally, the Windward Oahu region has been targeted as an area especially in need of a regional plan, and funds are included for this purpose.

Legal Services. Your Committee is concerned with maintaining high standards of legal services available to the State. The increase in the number and complexity of litigation involving the State necessitates providing the Office of the Attorney General with supplemental appropriations to expand and upgrade services. These funds are intended for hiring additional attorneys, pay increases to enable the Attorney General to retain trained attorneys and litigation expense.

Security of the Capitol Complex. Due to the increase in the scope of problems related to providing security services at the State Capitol, for the Governor and Lieutenant Governor, and for the Judiciary (particularly during criminal trials), the Attorney General has been provided with additional funds and positions.

Personnel Services. Your Committee is in accord with the supplemental appropriation request of the Department of Personnel Services. These funds have been appropriated with the understanding that services in the area of recruitment, training classification and collective bargaining support will be upgraded to provide timely support to other State agencies.

Taxation. The effective and equitable administration of the tax laws is a prime requirement for public confidence in the governmental process. Your Committee is aware of the administrative problems in the Department of Taxation. It is encouraged by the efforts being made by the Department to correct these problems. Your Committee has provided funds to upgrade and modernize the operations of the Department.

#### RECOMMENDATION

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2100-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2100-76, H.D. 1, S.D. 1, C.D. 1.

Senators R. Wong, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yamasaki,  
Yim, Young, Anderson, Henderson and Soares  
Managers on the part of the Senate

Representatives Suwa, Akizaki, Inaba, Kihano, Kiyabu, Kondo, Kunimura,  
Lunasco, Mizuguchi, Morioka, Peters, Amaral, Clarke, Hakoda, Kamalii  
and Lum  
Managers on the part of the House

## STANDING COMMITTEE REPORTS

## SCRep. 1-76 Legislative Management

Informing the Senate that S.C.R. Nos. 1 to 3, S.R. Nos. 1 to 3 and S.B. Nos. 1734-76 to 1934-76 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator Taira.

## SCRep. 2-76 Legislative Management

Informing the Senate that S.C.R. Nos. 4 to 22, S.R. Nos. 4 to 91 and S.B. Nos. 1935-76 to 1952-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

## SCRep. 3-76 Legislative Management

Informing the Senate that Gov. Msg. No. 65, S.C.R. Nos. 23 to 27, S.R. Nos. 92 to 107, S.B. Nos. 1953-76 to 1971-76 and Spec. Com. Rep. Nos. 2 to 6 have been printed and are ready for distribution.

Signed by all members of the Committee.

## SCRep. 4-76 Legislative Management

Informing the Senate that S.R. Nos. 108 to 110 and S.B. Nos. 1972-76 to 2000-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

## SCRep. 5-76 Legislative Management

Informing the Senate that S.C.R. No. 28, S.R. Nos. 111 to 117, S.B. Nos. 2001-76 to 2023-76 and Spec. Com. Rep. Nos. 7 and 8 have been printed and are ready for distribution.

Signed by all members of the Committee.

## SCRep. 6-76 Legislative Management

Informing the Senate that S.R. Nos. 118 to 120, S.B. Nos. 2024-76 to 2037-76 and Spec. Com. Rep. No. 9 have been printed and are ready for distribution.

Signed by all members of the Committee.

## SCRep. 7-76 Legislative Management

Informing the Senate that S.R. Nos. 121 to 123, S.B. Nos. 2038-76 to 2048-76 and Stand. Com. Rep. No. 8-76 have been printed and are ready for distribution.

Signed by all members of the Committee

## SCRep. 8-76 Ways and Means on S.B. No. 1893-76

The purpose of this bill is to provide funds for the expenses of the Legislature up to June 30, 1977 and for the expenses of the legislative support agencies during fiscal year 1976-77.

Upon consideration, your Committee has amended this bill to provide for the following appropriation amounts.

SENATE AND HOUSE OF REPRESENTATIVES

An appropriation of \$1,453,714 has been made for the expenses of the Senate and \$1,880,494 for the expenses of the House of Representatives. These amounts represent a 10% increase over the 1975 appropriations. We find that this 10% increase is necessary to cope with increased costs for equipment, supplies, staff services and other expenses of the Legislature.



LEGISLATIVE AUDITOR

The sum of \$945,533 has been appropriated to the Office of the Legislative Auditor. This is the amount requested by this office. Also, \$150,000 has been provided for the conduct of legislatively-mandated special studies.

STATE ETHICS COMMISSION

The State Ethics Commission had requested \$90,000 and we have provided for this amount in this bill.

LEGISLATIVE REFERENCE BUREAU

We have provided \$622,913 for the Legislative Reference Bureau. This is the amount requested plus an additional \$5,000 for the Legislative Information Office which has been established to provide the public with timely information on hearings, status of bills and other matters relating to the Legislature. It is our hope that this office will help encourage public knowledge of and input into the legislative process.

REVISOR OF STATUTES

\$240,832 has been provided for the Office of Revisor of Statutes. We have disallowed a request for \$50,000 for the replacement of volume 4 of the Hawaii Revised Statutes. In our opinion, this request should more properly be considered separately along with the enabling bill which will be before the Legislature this current session.

OMBUDSMAN

As requested by the Ombudsman, we have provided \$275,369 for the expenses of that office.

All unexpended or unencumbered balances of any appropriation made by this bill shall lapse on June 30, 1977.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1893-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1893-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 9-76 Legislative Management

Informing the Senate that S.R. Nos. 124 to 130, S.B. Nos. 2049-76 to 2100-76 and Spec. Com. Rep. No. 10 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 10-76 Legislative Management

Informing the Senate that S.C.R. No. 29, S.R. Nos. 131 to 135 and S.B. Nos. 2102-76 to 2120-76 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator Henderson.

SCRep. 11-76 Legislative Management

Informing the Senate that S.R. No. 136 and S.B. Nos. 2121-76 to 2158-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 12-76 Legislative Management

Informing the Senate that S.C.R. Nos. 30 to 36, S.R. Nos. 137 to 144, S.B. Nos. 2159-76 to 2191-76 and Spec. Com. Rep. No. 11 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 13-76 Legislative Management

Informing the Senate that S.C.R. Nos. 37 to 39, S.R. Nos. 145 to 148, S.B. Nos. 2192-76

to 2221-76 and Spec. Com. Rep. No. 12 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 14-76 Legislative Management

Informing the Senate that S.R. Nos. 149 to 152, S.B. Nos. 2222-76 to 2261-76 and Stand. Com. Rep. No. 15-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 15-76 Judiciary on S.B. No. 1771-76

The purpose of this bill is to provide for the submission of the question, "shall there be a convention to propose a revision of or amendments to the Constitution?", at the general election of 1976.

Your Committee finds that it is appropriate to submit such question to the electorate at the general election of 1976.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1771-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 16-76 Legislative Management

Informing the Senate that S.C.R. No. 40, S.R. Nos. 153 and 154, S.B. Nos. 2262-76 to 2283-76 and Stand. Com. Rep. No. 17-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 17-76 Housing and Hawaiian Homes on S.C.R. No. 15

The purpose of this concurrent resolution is to request that an ad hoc committee on codes and housing costs be formed to review existing codes which relate to housing and make recommendations regarding the retention, elimination or modification of the provisions of these codes as is appropriate to Hawaii's special conditions and recent technological advances.

The purpose of the amendments to the concurrent resolution are to include the speaker of the house of representatives and exclude the chairman of the senate Committee on Housing and Hawaiian Homes as among those to whom copies of this concurrent resolution are transmitted and to substitute "legislature" for "senate" as to whom the findings of the committee shall be reported.

Your Committee feels that a review as requested by the concurrent resolution is necessary, particularly given the relatively high cost of housing in Hawaii and the necessity of making housing more available to Hawaii's people.

Your Committee on Housing and Hawaiian Homes is therefore in accord with the intent and purpose of S.C.R. No. 15 as amended herein and recommends its adoption in the form attached hereto as S.C.R. No. 15, S.D. 1.

Signed by all members of the Committee.

SCRep. 18-76 Legislative Management

Informing the Senate that S.C.R. Nos. 41 to 44, S.R. Nos. 155 to 166, S.B. Nos. 2284-76 to 2308-76 and Stand. Com. Rep. Nos. 19-76 and 20-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 19-76 (Majority) Ecology, Environment and Recreation on S.B. No. 1880-76

Act 218, of the 1974 Legislature (IV A-11) appropriated \$400,000 for land acquisition, planning and construction of a fish and wildlife sanctuary and park at Paiko Peninsula, Oahu.

Act 195 of the 1975 Legislature (VI B-22) appropriated \$600,000 for the acquisition of 119,500 square feet of land together with an existing road right-of-way being a portion of Tax Map Key 3-8-01-69 abutting and generally located west of existing state-owned parcels for planning and construction of a fish and wildlife sanctuary and park at Paiko Peninsula, Oahu, to be used in conjunction with unencumbered balances from the 1974 appropriation.

The purpose of this bill is to acquire a remaining houselot within the existing sanctuary, being all of that portion of Tax Map Key 3-8-01-69, together with existing road right-of-way which had not hitherto been acquired for the sanctuary and park. There are still substantial unencumbered balances from the 1974 and 1975 appropriations referred to above.

Your Committee finds that the acquisition of this remaining parcel of land is necessary to preserve the integrity of the peninsula which has already been acquired by the State.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1880-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee. Senators Hulten, Ching and Hara did not concur.

SCRep. 20-76 Intergovernmental Relations on S.B. No. 1998-76

The purpose of this bill is to enable the liquor commissions in the State to obtain criminal information of applicants for liquor licenses. Section 831-3.1, Hawaii Revised Statutes, states that a person may not be disqualified to engage in a business for which a license is required, solely by reason of a prior conviction of a crime. This bill amends Sections 831-3.1(a) and 831-3.1(d) so that the liquor commissions may use criminal information in considering the fitness of a liquor license applicant.

Your Committee is in accord with the intent and purpose of S.B. No. 1998-76, and recommends that it pass Second Reading, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Kawasaki and Young.

SCRep. 21-76 Legislative Management

Informing the Senate that S.R. Nos. 167 to 169 and S.B. Nos. 2309-76 to 2323-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 22-76 Legislative Management

Informing the Senate that S.C.R. No. 45, S.R. Nos. 170 to 173 and S.B. Nos. 2324-76 to 2394-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 23-76 Legislative Management

Informing the Senate that S.C.R. Nos. 46 and 47, S.R. Nos. 174 to 183, S.B. Nos. 2395-76 to 2423-76 and Stand. Com. Rep. Nos. 24-76 to 28-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 24-76 Intergovernmental Relations on S.B. No. 1889-76

The purpose of this bill was to establish a special planning district for Manoa Valley and to direct the City and County of Honolulu to enact by ordinance appropriate regulations concerning land-use in the district. The bill also would appropriate \$100,000 to be expended by the City and County of Honolulu in carrying out the purposes of the Act.

Your Committee has heard testimony to the effect that Manoa Valley is a unique area of scenic value to all residents of Hawaii. The area is General Planned for low and medium density apartments, to which a majority of the residents of the area are opposed.

Testimony was heard to the effect that construction of such apartments would destroy the present character of the area, and its scenic beauty.

However, your Committee felt that it would not be desirable for the State to step in and create a special planning district, but rather your Committee favored an appropriation to the City and County of Honolulu for the purpose of carrying out a study of land-use in Manoa Valley, and determining the feasibility of establishing a special planning district for that area.

Your Committee has therefore amended the bill to provide for an appropriation of funds to be expended by the City and County of Honolulu for the purpose of carrying out a study of current and proposed land-use in Manoa Valley and determining the feasibility of establishing a special planning district in Manoa Valley.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 1889-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1889-76, S.D. 1, and be referred to the Committee on Ecology, Environment and Recreation.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 25-76 Consumer Protection on S.B. No. 1780-76

The purpose of this bill is to conform state and federal laws relating to door-to-door sales.

This bill repeals various sections of Chapter 476, Hawaii Revised Statutes, and replaces them with a new chapter.

Presently, there exists some confusion relating to door-to-door sales because of inconsistent state and federal provisions. Businesses using contracts are presented with the problem of conforming to the "correct" law. Under this proposed Act, the conflicts would be eliminated.

Your Committee held a public hearing which was attended by representatives from the Office of Consumer Protection and from various business firms which would be affected by the proposed provisions. These parties agreed that certain sections would be too restrictive on consumers and sales personnel in some instances and recommended that changes be made to provide for these situations including emergency or buyer-initiated transactions.

Your Committee amended the bill by removing from the definition of a door-to-door sale any transaction: (a) made pursuant to prior negotiations at the seller's regular place of business (b) to meet an emergency need and after the consumer has signed a waiver (c) conducted and consummated entirely by mail or telephone, or (d) in which the buyer has initiated the contact.

Your Committee also amended the bill by clarifying the definition of "sale" to mean "any sale with the purchase price of \$5 or more or \$25 if the merchandise is capable of being delivered at one time..." This provision is intended to curtail the activities of "magazine hustlers" who victimize consumers through door-to-door sales.

Your Committee on Consumer Protection is in accord with the intent and purpose of S.B. No. 1780-76, 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. 1780-76, S.D. 1.

Signed by all members of the Committee.

SCRep. 26-76 Consumer Protection on S.B. No. 2140-76

The purpose of this bill is to authorize consumers to waive in writing the existing statutory requirement that a written price estimate must be furnished to the consumer before performing motor vehicle repairs.

After the enactment of motor vehicle repair legislation last session, your Committee studied the actual implementation of the new provisions and found that the existing statutory requirement can sometimes be impractical and inconvenient for the consumer. Many consumers who regularly patronize certain repair dealers, and have established good business relationships, would rather authorize repairs in good faith without the necessity of first obtaining the written estimate.

Your Committee amended the bill by adding an additional safeguard by requiring that the waiver be in the customer's own handwriting.

Your Committee on Consumer Protection is in accord with the intent and purpose of S.B. 2140-76 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2140-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 27-76 Human Resources on S.R. No. 67

The purpose of this resolution is to request the Senate Committee on Human Resources to study public assistance in Hawaii, with a view towards determining an equitable, productive solution to burgeoning welfare roles. The focus of the study should be fact finding in order to determine patterns of public assistance expenditures, occurrences of abuses, implementation of laws and programs designed to encourage employment.

Your Committee finds that a thorough examination of facts relating to public assistance and public assistance recipients, can provide solutions towards meeting the needs of these people without encouraging fraud or dependence. These facts should also reveal the specific areas in which public assistance may be restructured to provide assistance equitably, without overdependence on the government.

Your Committee on Human Resources is in accord with the intent and purpose of S.R. No. 67 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 28-76 Human Resources on S.B. No. 1892-76

The purpose of this bill is to require a governmental agency to purchase products and services performed by non-profit corporations and public agencies operating rehabilitation facilities for the physically and mentally handicapped in Hawaii.

Your Committee finds that this bill will provide more employment for the handicapped. In this period of normalization where a great number of people are being deinstitutionalized and being returned to the community, it is imperative that a system of rehabilitation be established, including progressive work experience starting with work activity programs.

Your Committee has amended the purpose of the bill by encouraging governmental agencies to support the rehabilitation of the physically and mentally handicapped.

Your Committee finds that the Department of Labor and Industrial Relations defines "sheltered workshop" as a training and work-oriented facility as compared to a care and treatment type facility. Your Committee has amended the bill to confine products and services, produced or offered by "sheltered workshops."

Your Committee has further amended the bill to provide a certified sheltered workshop provided their products meet minimum specifications and bid price does not exceed by five percent the lowest price bid by a nonqualified organization.

For the purposes of conformity, your Committee has amended the bill by requiring the State Comptroller to adopt rules to establish preferences for the services to be performed and the products for purchase.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1892-76 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1892-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 29-76 Legislative Management

Informing the Senate that S.C.R. No. 48, S.R. Nos. 184 to 188, S.B. Nos. 2424-76 to 2468-76, Stand. Com. Rep. Nos. 30-76 to 33-76 and Gov. Msg. No. 95 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 30-76 Judiciary on S.B. No. 2009-76

The purpose of this bill is to amend Act 197, Session Laws of Hawaii, 1975.

Following hearings and testimony on the recommended expenditures for the various programs of the Judiciary, your Committee with a view towards maintaining the level of services and operation of the Judiciary examined the requests made by the Judiciary.

As a result of such examination, your Committee hereby recommends that the bill be amended as follows: At page 2, item number 6 of the bill, under the program heading, Administration Director, delete 25.00\* and 784,111A under the column designated FY 1976-77 and 1,445,055A under the column designated Total biennium and insert in lieu thereof, 20.00\*, 701,676 and 1,362,620A, respectively.

The purpose of this amendment is to keep the requirement of providing security for the Judiciary with the Office of the Attorney General.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2009-76 as amended herein, and recommends that S.B. No. 2009-76, S.D. 1, attached hereto, pass Second Reading and be referred to your Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 31-76 Ways and Means on S.B. No. 1191

The purpose of this bill is to expressly affirm the counties' authority to enact an improvement district ordinance.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1191 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 32-76 Education on S.B. No. 1940-76

The purpose of this bill is to provide for the transportation of students to the recreation center of Hawaii 2000, Incorporated.

Your Committee has found the opportunities available at the center to be beneficial to students and would like to make it possible for more students to enjoy them.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1940-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 33-76 Education on S.B. No. 2004-76

The purpose of this bill is to provide funds for the development of the educational program of the recreation center of Hawaii 2000, Incorporated, and to provide in-service training to Department of Education teachers that will enable them to teach their students about the State's land, flora, and environment.

Your Committee believes that such an educational program is needed, as is the in-service training of public school teachers in these subject areas.

Therefore, your Committee on Education is in accord with the intent and purpose of S.B. No. 2004-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 34-76 Legislative Management

Informing the Senate that S.C.R. Nos. 49 and 50, S.R. Nos. 189 to 195, and S.B. Nos. 2469-76 to 2530-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

## SCRep. 35-76 Legislative Management

Informing the Senate that S.C.R. Nos. 51 to 53, S.R. Nos. 196 to 205, S.B. Nos. 2531-76 to 2638-76, Gov. Msg. No. 98 and Spec. Com. Rep. No. 13 have been printed and are ready for distribution.

Signed by all members of the Committee.

## SCRep. 36-76 Legislative Management

Informing the Senate that S.C.R. No. 54, S.R. Nos. 206 to 213, S.B. Nos. 2639-76 to 3018-76 and Stand. Com. Rep. Nos. 37-76 and 38-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

## SCRep. 37-76 Housing and Hawaiian Homes on S.C.R. No. 7

The purpose of this concurrent resolution is to urge the Hawaii housing authority and the board of land and natural resources to work together promptly and efficiently to make public lands available to exchange for residential tracts to be converted to fee simple ownership pursuant to Act 184 of 1975.

The exchange mechanism would enable lessees to purchase their leasehold lots through chapter 516 without the necessity for the floating of bonds and concomitant constitutional and legal complications.

Your Committee on Housing and Hawaiian Homes is therefore in accord with the intent and purpose of S.C.R. No. 7 and recommends its adoption.

Signed by all members of the Committee.

## SCRep. 38-76 Housing and Hawaiian Homes on S.B. Nos. 1758-76, 1759-76, 1760-76, 1762-76, 1763-76, 1764-76 and 2394-76

Your Committee on Housing and Hawaiian Homes has considered the above listed bills and recommends that they pass First Reading by title and be recommitted to the Committee on Housing and Hawaiian Homes for further consideration.

Signed by all members of the Committee.

## SCRep. 39-76 Legislative Management

Informing the Senate that S.R. Nos. 214 to 218, Stand. Com. Rep. No. 40-76 and Gov. Msg. No. 103 have been printed and are ready for distribution.

Signed by all members of the Committee.

## SCRep. 40-76 Government Operations and Efficiency on S.B. No. 1632

The purpose of this bill is to prescribe criteria and procedures for the selection of design consultants for State and county public work projects. An agency is required to select the best available consultant on the basis of demonstrated competence and professional qualifications necessary for the services required. Under such procedure the agency must evaluate current statements of qualifications and performance data filed with the agency by interested consultants, and may select the consultant after conducting discussions with at least three consultants regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services.

In testimony presented to your Committee by the Consulting Engineers Council of Hawaii, it was stated that a similar method of selection as proposed in this bill was enacted in October, 1972 by the United States Congress after it recognized the need for a sound selection process for engaging design professionals for services on federal projects.

Your Committee is in accord with the intent and purpose of S.B. 1632 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

## SCRep. 41-76 Legislative Management

Informing the Senate that S.C.R. Nos. 55 to 59, S.R. Nos. 219 to 221 and Stand. Com. Rep. Nos. 42-76 to 49-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

## SCRep. 42-76 Education on S.R. No. 7

The purpose of this Resolution is to request the Department of Education to seek out available Federal and State support for its bilingual and bicultural program and to aid immigrant students in their adjustment to academic and social life in Hawaii. The department was further requested to report on the present status and future plans for its program.

In its testimony before the Committee, the department reported that approximately 2,800 to 3,000 immigrant students who required special educational assistance of some sort entered the school system each year. The department discussed its present programs and its plans for the future and pointed out that they will be working toward the establishment of an evaluation process for their program and toward a better coordination of activities between the various agencies offering services to this target group.

Your Committee believes that there is a need for the services presently provided by the department and for the program monitoring and coordination mentioned above.

Your Committee on Education concurs with the intent and purpose of S.R. No. 7 and recommends its adoption.

Signed by all members of the Committee.

## SCRep. 43-76 Education on S.B. No. 2034-76

The purpose of this Bill is to appropriate funds for the construction of a center for the retarded for the Special Education Center at the Fort Ruger Complex, Oahu.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2034-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

## SCRep. 44-76 Education on S.B. No. 2133-76

The purpose of this Bill is to provide funds for equipment, furniture, furnishings, and athletic, therapeutic, and recreational improvements for the Special Education Center at the Fort Ruger Complex, Oahu.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2133-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

## SCRep. 45-76 Public Utilities on S.B. Nos. 1741-76 and 1742-76

Your Committee on Public Utilities has considered the above-listed bills and recommends that they pass First Reading by title and be recommitted to the Committee on Public Utilities for further consideration.

Signed by all members of the Committee.

## SCRep. 46-76 Ecology, Environment and Recreation on S.B. No. 1750-76

The purpose of this bill is to support the continued development of a comprehensive system of bikeways and hiking trails in order to expand these recreational vistas to more of our citizens.

Your Committee has amended the bill to add jogging paths. Your Committee has further amended the bill to appropriate \$100,000 out of the general revenues of the State of Hawaii.



Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1750-76 as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 175076, S.D. 1, and be referred to the Committee on Transportation.

Signed by all members of the Committee.

SCRep. 47-76 Ecology, Environment and Recreation on S.B. No. 2013-76

The purpose of this bill is to appropriate funds to acquire park and mini park lands throughout the State.

Your Committee finds that many of the densely populated residential areas in the state are lacking in open space. Parks and mini parks in these areas could serve a number of purposes including green open areas to enrich the neighborhood centers for gardening, gathering points for neighborhood residents, and playgrounds for children.

Your Committee finds, however, that parks of this nature have traditionally been under the jurisdiction of the counties. Your Committee therefore has amended the bill, appropriating the money to the City and County of Honolulu. Your Committee has further amended the bill to provide that the City and County of Honolulu concentrate this money in areas of high density that lack parks.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2013-76, as amended herein, and recommends that it be referred to the Committee on Economic Development in the form attached hereto as S.B. No. 2013-76, S.D. 1.

Signed by all members of the Committee.

SCRep. 48-76 Ways and Means on S.B. No. 243

The purpose of this bill is to eliminate the exemption from income tax extended to persons taking residence in the State after attaining the age of sixty-five years as to income derived from a source or sources out of the State.

Your Committee finds that the existing provision in effect imposes a heavier tax burden upon longtime residents of the State, by extending preferential treatment to newcomers, who have not previously contributed to the State's development during their earlier work careers.

Your Committee has amended the bill to allow all persons over the age of sixty-five who take up residence in the State prior to July 1, 1976 to be taxed on the basis of the existing provision, so that no inequitable prejudicing of accrued rights will result from this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 243, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 243, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 49-76 Consumer Protection on S.B. No. 1553

The purpose of this bill is to prohibit the selling or dispensing of imitation milk in place of fresh milk in eating establishments unless the consumer is adequately informed of this substitution by proper labeling, and expand the authority of the Department of Health regarding imitation products.

This bill amends Section 328-6, Hawaii Revised Statutes, the Hawaii Food, Drug and Cosmetic Act, by adding a new subsection, and amends Section 328-8 by adding a new provision. This bill also appropriates \$35,376 to be expended by the Department of Health to implement these new provisions.

Since the introduction of imitation milk and imitation milk products to Hawaii, many complaints have been filed regarding public eating establishments which serve these items without the knowledge of the consumer. Abuse is reportedly most prevalent in milk shakes and malted milk drinks. This bill would prohibit these abuses, as well as curb the substitution of non-dairy frozen desserts for dairy frozen desserts and of any other imitation food without the knowledge of the consumer.

The scope of enforcement will involve approximately 6,000 food establishments statewide

and the appropriation is intended to provide an adequate level of support to implement the provisions of this bill.

Your Committee on Consumer Protection is in accord with the intent and purpose of S.B. No. 1553, 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.

SCRep. 50-76 Legislative Management

Informing the Senate that S.R. Nos. 222 to 230 and Stand. Com. Rep. Nos. 51-76 to 62-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 51-76 Consumer Protection on S.B. No. 2224-76

The purpose of this bill is to allow insurance advisory organizations to provide services to insurers in the State of Hawaii in areas other than rate-making.

Presently, Section 294-13(k), Hawaii Revised Statutes, prohibits insurers from agreeing, combining, or conspiring with any other insurers to enter into, become a member of, or participate in any understanding, pool, or trust, to fix, control or maintain directly or indirectly, motor vehicle insurance rates. Although the intent of this provision was to prohibit the "fixing" of rates, the status of insurance advisory organizations is now clouded.

Advisory organizations publish technical information such as automobile insurance manuals, rules, policy forms, and endorsements. They also act as depositories for statistical data from which they produce and distribute loss costs. These organizations do not recommend rates and the services they provide are at a cost below what it costs insurers to individually compile this information. The additional expenses incurred by these insurers is substantial and is ultimately reflected in rates charged to consumers.

Your Committee on Consumer Protection is in accord with the intent and purpose of S.B. No. 2224-76, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 52-76 (Majority) Consumer Protection on H.B. No. 622

The purpose of this bill is to require insurance companies that issue disability (accident and health) policies, to indemnify beneficiaries regardless of whether services are rendered by a licensed physician or a licensed practitioner of another healing art. Specifically, the bill provides that the cost of services of persons licensed for the practice of chiropractic, naturopathy, optometry, osteopathy, and podiatry shall be indemnified.

Presently, patients who receive treatment from practitioners of certain healing arts are denied reimbursement by their insurance companies. This results in a denial to the consumer of the full range of medical options by placing greater monetary burdens for certain services. The intent of this bill is to establish parity for these consumers and the licensed practitioners of these healing arts.

Your Committee on Consumer Protection is in accord with the intent and purpose of H.B. No. 622, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee. Senator Saiki did not concur.

SCRep. 53-76 Judiciary on S.B. No. 1794-76

The purpose of this bill is to amend Section 456-2, Hawaii Revised Statutes, in the following manner: 1) Eliminate the durational residence requirements that a prospective notary public be a resident of the State for one year. 2) Lower the age for notaries public from twenty to eighteen years of age. 3) Increase the bond amount for notaries in each judicial circuit to \$5,000 and eliminate the differential in bond amount that presently exists. 4) Increase the fees charged to notaries public by the attorney general for the

issuance or renewal of a notary public commission and by the circuit courts for filing a copy of a notary public commission and for a certificate of authentication.

The elimination of the durational residence requirement is a housekeeping measure since a number of judicial decisions in recent years have made it clear that a durational requirement relating to residency cannot be upheld. Lowering the age requirement is in conformity with the recent change in the age of majority for voting and holding public office. The bond amount is increased to afford greater protection to members of the public. The increase in fees charged notaries public by the attorney general and the circuit courts is necessary due to the increased administrative costs.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1794-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 54-76 Judiciary on S.B. No. 1843-76

The purpose of this bill is to amend the existing law by increasing the examination fee from \$25 to \$35.

This increase is necessary inasmuch as the Professional Examination Service, New York, which prepares and grades the examination, has recently raised the service cost from \$25 to \$30 for each candidate. The additional \$5 will help defray the costs of the Division's examination staff in arranging for the examination room, monitoring the examinations and preparing and mailing instructions and examination results to candidates.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1843-76, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 55-76 Judiciary on S.B. No. 1844-76

The purpose of this bill is to amend the existing acupuncture and pest control laws by changing the renewal of licenses from an annual to a biennial basis.

Your Committee finds that the bill is necessary to provide conformity in the laws.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 184476 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 56-76 Judiciary on S.B. No. 1561

The purpose of this bill is to amend the existing law by deleting the citizenship and residence requirements in order to become a licensed attorney in the State of Hawaii.

Under existing law a person in order to become a licensed attorney: 1) must be a citizen of the United States; 2) must satisfy the residence requirements as prescribed by the Hawaii Supreme Court; and 3) must satisfy other requirements prescribed by the Hawaii Supreme Court.

The United States Supreme Court in the case of In Re Griffiths, 413 U.S. 717 (1973), held that the rule barring resident aliens from admission to the State bar violated the equal protection clause of the 14th Amendment. Therefore, the citizenship requirement imposed as a condition to the practice of law in the State of Hawaii is unconstitutional. However, the United States Supreme Court has not ruled that the residence requirement is unconstitutional per se.

In examining the proposed amendment to Section 605-1(b), Hawaii Revised Statutes, found on page 2 of the bill, your Committee finds that the changes made are too restrictive and confining as to what the Hawaii Supreme Court can require. Your Committee feels that the Supreme Court should be given the flexibility that it now has in ascertaining what requirements, including residence, must be satisfied before one can become a licensed attorney. Your Committee recommends that the bill be amended as follows:

"In order to be licensed by the supreme court, a person shall be of good moral character, and shall satisfy such residence and other requirements as the supreme court may prescribe."

As to Section 605-1(c), as proposed, your Committee feels that the language used should be deleted in its entirety. The Hawaii Supreme Court should be the arbiter as to what these qualification requirements should be. It is our understanding that the Supreme Court and the University of Hawaii Law School are presently working on a plan to admit immigrant attorneys. Your Committee has every reason to believe that the Supreme Court will work out a reasonable plan to insure the preparation and qualification of immigrant attorneys.

It is only common knowledge that immigrants to any new land face many diverse challenges in their daily lives, and Hawaii is no exception. Change is always difficult. This being the case, every effort should be made to assist these immigrants in their transition and assimilation into our Hawaii community.

Your Committee further recommends that Section 1 pertaining to the purpose of the bill be deleted in its entirety.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1561 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1561, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 57-76 Judiciary on S.B. No. 1785-76

The purpose of this bill is to allow the Office of Consumer Protection to maintain actions to collect civil penalties against those who violate any injunctive order pursuant to a court order obtained by the Office.

At present only the Attorney General may collect civil penalties for violations under Chapter 480, Hawaii Revised Statutes. Since the Office of Consumer Protection obtains injunctions under Chapter 480, the Office should be allowed to maintain actions to collect civil penalties against violators of injunctive orders.

The Office of Consumer Protection has informed this Committee that the figure of \$2,500 in line 7, page 1, should be changed to \$10,000. The required change is due to a clerical error.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1785-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1785-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 58-76 Judiciary on S.B. No. 1789-76

The purpose of this bill is to amend Section 103-26, Hawaii Revised Statutes, concerning advertisement for bids, by decreasing the number of times the publication of a call for tender shall be made in a newspaper of general circulation from not less than five times to not less than three times.

Your Committee on Judiciary concurs with the testimony submitted by the Department of Accounting and General Services to the effect that upon enactment of this bill, the cost of advertising for competitive public bids and the time delay necessitated by current advertising requirements will be greatly reduced.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1789-76, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 59-76 Judiciary on S.B. No. 1836-76

The purpose of this bill is to permit the Director of Regulatory Agencies to appoint a departmental hearings officer and a complaints officer not subject to Chapters 76 and 77, Hawaii Revised Statutes. In addition, the measure would supplement the statutory powers of the hearings officer by allowing him to issue subpoenas and administer oaths

to witnesses.

Presently, the Director may appoint a hearings officer to preside at contested case hearings held pursuant to Chapter 91, Hawaii Revised Statutes. However, the status of the hearings officer as a department employee is not clear. Since the position requires an attorney with knowledge of administrative law, in particular, conducting contested case hearings under said Chapter 91, drafting preliminary recommended decisions and insuring the legality of agency decisions, the bill proposes to exempt the individual from said Chapters 76 and 77.

Allowing the hearings officer the power to issue subpoenas and administer oaths is consistent with existing powers granted masters appointed under Section 92-16, Hawaii Revised Statutes.

The appointment of a complaints officer will facilitate the investigation and resolution of the numerous complaints that are received by the department. The complaints officer's duties entail furnishing legal guidance to departmental investigation and executive secretaries with a view towards effecting a speedy and just resolution of citizen complaints. If a complaint results in a contested case hearing, the complaints officer may assist in the presentation of the case before the adjudicative body. The Director of the Department of Regulatory Agencies through the complaints officer will be able to monitor complaint resolution procedures utilized by all divisions and boards within the department, manage the most difficult, sensitive, or confidential cases, and coordinate the satisfactory solution of inter-agency complaints. In addition, this office will recommend to the Director possible changes to board rules and regulations, statutes or policy. Due to the specialized nature of this position, and the urgent need for prompt responsive attention to consumer complaints, the bill proposes to exempt the individual from said Chapters 76 and 77.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1836-76, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 60-76 Judiciary on S.B. No. 1837-76

The purpose of this bill is to require each industrial loan company issuing investment certificates under Chapter 408, Hawaii Revised Statutes, and debentures under Chapter 485, Hawaii Revised Statutes, to submit at its own expense a certified audit of its books and records by an independent certified public accountant ninety days of the close of its books, whether on a calendar or fiscal year basis.

Industrial loan companies, also known as finance companies operate under Chapter 408, Hawaii Revised Statutes.

There are two types of industrial loan companies operating in Hawaii:

1. Industrial loan companies soliciting funds from the general public by the sale and issuance of investment certificates.
2. Industrial loan companies which do not solicit funds from the general public except through the sale of capital stock of the company.

This bill will be applicable only to those industrial loan companies falling in the first category. There are 27 industrial loan companies in this group.

A certified audit of the books and records of an industrial loan company will be beneficial not only to the bank examiner but to the stockholders of the company, to management, and to investors and depositors in the company.

Financial statements increase the protection of investors and stockholders of the company by providing them with an evaluation of the financial condition of the company and its operations.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1837-76, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 61-76 Judiciary on S.B. No. 1855-76

The purpose of this bill is to amend Section 286-102, Hawaii Revised Statutes, by placing buses having a gross vehicle weight rating of ten thousand pounds or less in another category of motor vehicles.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1855-76, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 62-76 Judiciary on S.B. No. 2031-76

The purpose of this bill is to permit public employees to observe a State holiday which falls on Saturday on the preceding Friday on a uniform basis.

The existing law provides that any State holiday falling on Sunday shall be observed on the following Monday as a holiday. Further, any State holiday falling on a Saturday and is also a "national holiday," shall be observed on the preceding Friday as a holiday.

In calendar year 1977, two State holidays, Kuhio Day and Kamehameha Day, will fall on a Saturday. Since both of those days are not national holidays, the holiday will be observed on a Saturday. Employees covered by collective bargaining agreements, however, will observe these State holidays on the preceding Friday.

Your Committee finds that this bill would ensure that all public employees will be treated alike.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2031-76, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 63-76 Legislative Management

Informing the Senate that S.C.R. Nos. 60 and 61; S.R. Nos. 231 to 245; Spec. Com. Rep. No. 14; and Stand. Com. Rep. Nos. 64-76 to 92-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 64-76 Education on S.B. No. 1809-76

The purpose of this Bill is to amend the statutes with regard to the solicitation of students by agents of private schools and correspondence schools. Changes have been made in the amount of the surety bond posted by such an agent and in the application for a license.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1809 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 65-76 Education on S.B. No. 1854-76

The purpose of this Bill is to amend the statutes to provide that no vehicle, other than a school bus, shall display a "School Bus" sign.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1854-76 and recommends that it pass Second Reading and be referred to the Committee on Transportation for further consideration.

Signed by all members of the Committee.

SCRep. 66-76 Education on S.B. No. 2165-76

The purpose of this Bill is to provide funds for the operation of the Responsive Education Program for Youth Project. This program is a cooperative venture in juvenile delinquency prevention, incorporating the resources, skills, and talents of Central Intermediate

School, the State Department of Education, and the Nuuanu branch of the Young Men's Christian Association.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2165-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 67-76 Education on S.B. No. 2302-76

The purpose of this bill is to provide funds for the continuation of the program and replacement of deteriorated equipment of the Blue Water Marine Laboratory.

This program acquaints high school students with the fundamentals of oceanography and familiarizes them with Hawaiian marine life.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2302-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 68-76 Education on S.B. No. 2345-76

The purpose of this Bill is to appropriate funds for the field testing of teacher evaluation systems.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2345-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 69-76 Education on S.B. No. 2346-76

The purpose of this Bill is to provide a grant-in-aid to the Honolulu Symphony. The Honolulu Symphony does much to enrich the cultural lives of the people of the State and your Committee is desirous of supporting its program.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2346-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 70-76 Education on S.B. No. 2415-76

The purpose of this bill is to provide funds for the construction of a multipurpose educational center auditorium at the Honolulu Zoo. The center would be used to instruct students about the zoo's animal life.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2415-76 and recommends that it pass second reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 71-76 Education on S.B. No. 2417-76

The purpose of this bill is to provide funds for the plans, design, site selection, landscaping, construction, and other appurtenances for an ethnic cultural building complex on the island of Hawaii.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2417-76 and recommends that it pass second reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 72-76 Human Resources on S.B. No. 1819-76

The purpose of this bill is to increase the present maximum allowable monthly allowance of \$300 for services of an attendant to a disabled employee to an amount of not more than the product of four times the effective maximum weekly benefit rate.

The present law amended in 1971 authorizes the Director of Labor and Industrial Relations to require an employer to pay an injured worker up to \$300 a month for services of an attendant if the service is constantly necessary. A survey conducted in 1975 by the Department of Labor and Industrial Relations of private and state nursing facilities showed a gross disparity between the prevailing rates of these institutions and the maximum allowance for services of an attendant. Other considerations are the increase in the State's minimum hourly wage from \$1.60 to \$2.40. Also noted is an increase in the Honolulu Consumer Price Index from January, 1971 to June, 1975 of 31 percent.

Your Committee feels that these indicators suggest a compelling need to increase the present \$300 maximum allowance to enable a severely disabled worker to procure, maintain, or retain the services of an attendant. The new formula will provide a maximum allowable monthly allowance of \$668.00.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. 1819-76, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 73-76 Human Resources on S.B. No. 1820-76

The purpose of this bill is to enable employees who receive non-cash remuneration to meet the wage requirement for entitlement to prepaid health care benefits.

Presently, an employee who performs services for which he receives non-cash remuneration would be at a disadvantage in qualifying for health care coverage. An example is an employee who manages a group of apartment units for which he receives room and board but little or no cash remuneration. Under the Temporary Disability Insurance, Unemployment Insurance, and Workers' Compensation Laws, this employee would be covered since these laws treat remuneration in kind as wages.

This bill would permit the consideration of non-cash remuneration as wages to facilitate the qualification for prepaid health care benefits.

Your Committee further believes that this bill would set aside the inconsistency that presently exists in which the Temporary Disability Insurance, Unemployment Insurance, and Workers' Compensation Laws consider remuneration in kind as wages but the Prepaid Health Care Law does not. This measure would establish a common definition of wages in the Temporary Disability Insurance, Unemployment Insurance, Workers' Compensation, and Prepaid Health Care Laws.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1820-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 74-76 Human Resources on S.B. No. 1821-76

The purpose of this bill is to allow an employer who has prepaid the premium for health care coverage to deduct, in cases of voluntary separation, the employee's share of the premium from the employee's last paycheck or to seek other appropriate means to recover the premium. Recoupment would be limited to the lesser of 1.5 percent of the employee's wages or one-half of the premium cost.

The prepaid Health Care Law requires every subject employer to provide health care coverage for his employees. Premiums are usually paid a month in advance to the health care contractor, necessitating that the employer prepay the employee's share and later withhold the amount from the employee's wages. Should the employee leave his job soon after the employer has made the premium prepayment, the employer cannot recover such prepayments.

Your Committee feels this bill would protect the employer from unreasonable losses should any employee for whom prepayment was made voluntarily leave their employment.



Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1821-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 75-76 Human Resources on S.B. No. 1830-76

The purpose of the bill is to allow the Director of Personnel Services discretion in authorizing initial appointments at any step within the appropriate salary range under certain circumstances.

Your Committee finds in areas where it is difficult to recruit, hiring above the minimum step within the appropriate salary range is permitted. However, the lowest step within a salary range that an eligible request becomes the highest step that can be offered any other eligible.

Your Committee further finds that this bill will help remedy this situation by enabling the Director of Personnel Services to secure another eligible who is better qualified for the position and requests a higher step within a salary range.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1830-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 76-76 Human Resources on S.B. No. 1831-76

The purpose of the bill is to include in the statute, paragraph 14 of section 76-16, Hawaii Revised Statutes, which states that positions filled by inmates, kokua, patients, and students of State institutions, and persons with severe physical or mental handicaps participating on work experience training programs, are not entitled to accumulate and use vacation leave.

Your Committee finds that the bases of employment of students are to provide them work experience and opportunities to earn monies to continue their education. Vacation leave affords employees opportunities for rest and relaxation and for attention to personal business. Your Committee also finds that the casual and temporary nature of such work, are not in line with the concept of granting vacation leave.

Your Committee further finds that in keeping with the amendment of S.B. No. 1832-76, this bill is a "housekeeping" measure to clarify statute language.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1831-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 77-76 Human Resources on S.B. No. 1894-76

The purpose of the Bill is to redefine "service fee" to be the amount deducted from the pay of an employee who is not a union member and to cover prorated cost for services rendered by the union in negotiations and contract administration.

Your Committee finds that because of the wording of the law the employer automatically deducts a service fee from all employees within the appropriate bargaining unit. Your Committee also finds that the law does not make it absolutely clear that service fees may be computed on either a pro rata dollar amount or percentage basis, thus making it difficult for the Hawaii Public Employment Relations Board when reviewing service fee applications.

Your Committee has amended the Bill by clearly stating that the Board is to determine a service fee as reasonable, only after a hearing is held in compliance with the provision of Section 91-9. Hearings shall take place no sooner than two weeks after publication of a legislative hearing in a newspaper of general circulation in the State of Hawaii. Your Committee has also amended the Bill to clearly state that the service fee used to defray costs incurred or to be incurred in negotiating and administering a collective bargaining agreement will not exceed the amount of dues paid by members of the exclusive representative for that unit.

Your Committee has further amended the Bill by entitling the employer, at the request of the exclusive representative, to deduct from the pay of all employees who are members of an exclusive representative, the amount of the exclusive representatives membership dues, initiation fees, group insurance program, and association benefit charges, and remit the amount to the exclusive representative. The purpose of the amendment is to provide clear and concise language to the present statutes.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1894-76, as amended in the form attached hereto as S.B. No. 1894-76, 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. 78-76 Consumer Protection on S.B. No. 1328

The purpose of this bill as amended herein is to compile present laws regarding odometers which are scattered among the Hawaii Revised Statutes, and place them in one chapter, provide adequate enforcement powers to the director of weights and measures, clear up ambiguities between federal and state law, and provide civil relief to aggrieved parties.

When present odometer regulations were originally enacted, little thought was given to the practical aspects of enforcement and as a result, much of the intent and purpose of these safeguards were being circumvented to the detriment of consumers.

While the Division of Weights and Measures has done a commendable job in attempting to protect Hawaii's consumers, their efforts were frequently stifled by the limitations of enforcement powers as well as a lack of meaningful and realistic provisions.

Legitimate used car dealers have been faced with an equally frustrating situation as they comply with the tangled, confusing and sometimes costly requirements of the present law while private car owners, who account for up to 80% of used car sales, many times ignore these provisions.

This bill, as amended, represents a practical approach to odometer regulation and enforcement in the following manner:

1. Accuracy Certification of Odometers

This bill provides that motor vehicles will have the accuracy of their odometers certified upon entry into the State of Hawaii.

2. Updating of Certification

When the ownership of a motor vehicle is transferred, the odometer reading is to be recorded on the ownership form. If any discrepancy arises, transfer cannot be completed until it is resolved. This provision will discourage odometer "spinners" who turn back mileage reading far below the actual mileage of the vehicle.

3. Enforcement

The Director of Weights and Measures is empowered to inspect or impound motor vehicles, issue citations, and promulgate rules to adequately implement the intent and purpose of this bill. Also, a revolving fund is established into which the director shall deposit funds to be used to support the enforcement activities.

4. Penalty

Persons who intentionally violate this section shall be guilty of a violation and are liable to the buyer for \$1,500 or three times the amount of damages, whichever is greater. This proposed provision will conform to existing federal law regarding odometers.

Your Committee believes that this bill will provide adequate means for fair and realistic enforcement of odometer regulation and added protection of Hawaii's consumers.

Your Committee on Consumer Protection is in accord with the intent and purpose of S.B. No. 1328, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 1328, S.D. 1, and be referred to the Committee

on Judiciary.

Signed by all members of the Committee.

SCRep. 79-76 Judiciary on S.C.R. No. 4

The purpose of this concurrent resolution is to urge the Hawaii Supreme Court to give early consideration to the amendment of the Code of Professional Responsibility in order to facilitate the formation of prepaid and group legal service plans.

Your Committee finds that the concept of prepaid and group legal service plans is spreading in the United States and will have application in Hawaii as witnessed by the plan of Local 1186 of the IBEW, the Pacific Electrical Contractors Association, and other signatories.

In order to facilitate the formation of prepaid and group legal service plans, the Code of Professional Responsibility must be amended. The American Bar Association has formulated amendments to the Code of Professional Responsibility which could be adopted as a whole or could be improved and adopted.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 4 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 80-76 Judiciary on S.C.R. No. 5

The purpose of this concurrent resolution is to request the United States Congress to amend the Internal Revenue Code to provide clarification of the tax impact on prepaid legal service plans, in particular:

1) Enact H. 3025, H. 8579 or S. 2051 which would provide that the contributions of an employer to a prepaid legal service plan are not taxable to the employee beneficiary of the plan and would also provide that the value of the benefits received under a prepaid legal service plan are not taxable to the member receiving the benefits; and

2) Amend section 501(c) of the Internal Revenue Code to provide that Taft-Hartley funds and non-Taft-Hartley funds are not taxed on the contributions received by them during the taxable year.

Your Committee finds that in 1972, approximately 32 million Americans with incomes between \$5,000 and \$15,000 were unable to afford legal services because they were too expensive. One of the methods of providing legal services to these persons and others who need them is through prepaid legal services.

Congress has amended the Taft-Hartley Act to allow the formation of trust funds to provide for such prepaid legal services plans. Congress has apparently preempted State action in the area of prepaid legal service plans which involves certain employers and employees covered by the Employee Retirement Income Security Act of 1974. Both of these Congressional Acts will encourage the formation of prepaid legal services plans; however, the income tax impact on these plans still remains unclear.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 5 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 81-76 Judiciary on S.B. No. 1775-76

The purpose of this bill is to clarify the relationship between prepaid legal services and statutory regulation and taxation. This bill provides for the regulation of prepaid legal services by the department of regulatory agencies by subjecting prepaid legal service plans to consumer protective legislation; by requiring public filing requirements with a statement of the plan's financial structure, benefits, terms and conditions and other required information; by protecting accumulated funds by requiring the filing of a bond or security in lieu of a bond; by requiring an annual exhibit; by controlling investments of the plan; and by providing a penalty for failure to comply with the new law. The bill further provides that prepaid plans are not insurance unless offered by an insurance company. The bill clarifies the income taxation of such prepaid plans by providing that plans offered by certain tax exempt organizations are themselves tax exempt and by providing that the value of legal services provided by a plan to a

taxpayer are not taxable to the taxpayer, that amounts paid to a taxpayer to reimburse him for legal services are not taxable to the taxpayer and by providing that contributions of an employer to a plan are not taxable to his employees. Lastly, the bill provides that plans offered by exempt organizations are themselves exempt from general excise taxation.

Prepaid legal service plans are a method by which legal services may be provided to lower and middle income persons at a price they can afford. A prepaid legal service plan is a plan between a group of consumers and one or more attorneys in which the attorneys agree to provide certain legal services to the group. Through formation of a group of consumers, these legal services are provided at a lower price than would be available on an individual basis. In addition, the group can collect a monthly payment in advance from its members to pay attorneys for legal services when provided.

Your Committee finds that prepaid legal service plans are a growing method of providing legal services on the mainland and that such plans are now being formed in Hawaii. The report of the Office of the Legislative Reference Bureau concerning Prepaid Legal Services and Hawaii found that 17 per cent of the labor unions and 11 per cent of the credit unions answering their questionnaire indicated plans for the formation of prepaid plans within three years. The report further found that there are approximately 200,000 persons between the income levels of \$7,000 and \$20,000 who are the persons to which these plans are directed. Further, there are 130,000 persons with incomes over \$15,000 but less than \$75,000 who may also be potential users of these plans. The possibility also exists that some persons entering these plans may presently be otherwise eligible for legal aid or a similar service and such plans will therefore provide relief for these overburdened agencies.

Prepaid legal service plans appear to your Committee to benefit both the people of Hawaii and the legal profession of Hawaii. Such plans are now in the formative and experimental stage of development and your Committee finds that overburdensome regulation at this stage would not encourage the growth necessary of such plans. Therefore, your Committee is in favor of this bill which provides that prepaid plans shall not be treated as insurance unless an insurance company is involved. Your Committee does not feel that the requirement of large paid-in capital or surplus, rate schedule filings, and similar regulation is necessary at this stage of the development of prepaid legal service plans.

Your Committee also finds that the tax treatment of prepaid plans should be similar to prepaid medical plans now operating in Hawaii. The bill so provides and your Committee is in favor of such provisions.

Your Committee has amended the bill as follows:

1. Sec. -1 has been amended by rewriting the definition of plan administrator in its entirety for greater clarity and to include persons who have discretionary authority for the management of the plan and to clarify the definition.
2. The definition of prepaid legal services in Sec. -1 has been amended to insure that the group legal service portion of the definition applies to prepaid legal service plans. The member of the plan has been added to those who may select the attorney to insure coverage of both open and closed panel plans by this new statute.
3. Sec. -2 has been amended by deleting the exemption of plans in which the State or a county is a member. Your Committee feels that at this stage in the development of prepaid legal services, such plans should meet the requirements of this new statute. If it appears at a later date that such coverage is unnecessary, then they may be exempted. It has been further amended by amending the title to include Rules of Court and by adding a new subsection providing that no plan subject to the new provisions shall contravene Rules of Court adopted by the Hawaii supreme court.
4. The last paragraph of Sec. -4 has been amended to insure that the intent of the legislature is clear in encouraging these plans with regard to the security required by the department of regulatory agencies for prepaid plans.
5. Sec. -5 has been amended by amending the first paragraph so that it reads with greater clarity. The requirements of the statement to be filed are basically the same; however, provision has been made for filing on a fiscal year basis instead of the calendar year filing previously required.
6. Sec. -7 has been amended by placing the requirement of compliance with statute on the plan alone instead of the plan or the plan administrator since it is the

plan which must comply through its plan administrator. The fine may still be imposed on the plan administrator. The imposition of the penalty has been made discretionary instead of mandatory to allow for possible justified delays in compliance which may be approved by the director of regulatory agencies.

7. Section 5 of the bill has been amended to conform the new definition of prepaid legal services added to the income tax law to the definition found in the new chapter regulating such plans enacted by section 1 of this bill. A similar amendment has been made to section 8, renumbered section 9, which adds a new definition of prepaid legal services to the general excise tax law.

8. Section 6 of the bill has been deleted and new sections 7 and 8 added which accomplish the same purpose as section 6, but by appropriately amending existing law.

9. Section 7, renumbered section 6, of the bill has been amended by changing the word "group" to "prepaid" before legal services in section 235-7(a)(10) and (11) and by adding "prepaid" before "legal services" in section 235-7(a)(12) to conform to the definition contained in section 5.

10. Section 9, renumbered section 10, has been amended by adding the word "prepaid" before "legal services" in section 237-23(a) (5) to conform to the definition contained in section 9.

11. Sections 10 and 11 have been renumbered sections 11 and 12 and section 12 has been amended by changing the section numbers therein to reflect the other amendments made by your Committee.

12. Certain style and grammatical changes have been made.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1775-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1775-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 82-76 Higher Education on S.B. No. 1862-76

The purpose of the bill is to state the privileges of the University of Hawaii are to be made available to all persons without regard to race, color, sex, or national origin.

The Equal Employment Opportunity Officer of the University of Hawaii, testified in favor of the bill.

This bill expressly conforms the existing statute relating to the University of Hawaii with the philosophy expressed in the Federal and State Constitutions and other laws.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1862-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator King.

SCRep. 83-76 Higher Education on S.B. No. 1863-76

The purpose of this bill is to repeal the statutory provision giving recognition to normal school students.

Section 304-21, Hawaii Revised Statutes, intended that full recognition of credits earned at the Territorial Normal School be given by the University of Hawaii and the Department of Public Instruction.

The Normal School was merged with the University of Hawaii in 1931. This legislation was designed to care for students and graduates of the Normal School who might be caught in the transition. It does not seem likely that after 45 years there could be any individuals remaining in service requiring such transitional protection. Section 304-21 is obviously archaic and should be removed from the statutes.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1863-76 and recommends that it pass Second Reading and be placed on the

calendar for Third Reading.

Signed by all members of the Committee except Senator King.

SCRep. 84-76 Higher Education on S.B. No. 1859-76

The purpose of this bill is to add the Campus Center to the list of activities which are exempted from central service expenses.

The Dean of Students at the University of Hawaii testified in favor of this bill. He stated that, the Campus Center is the same sort of special fund operation as Student Housing, Summer Session, Continuing Education and all Campus bookstores and cafeterias. All of these programs are now exempt from Act 34 charges. As such, to be consistent with current statutes, the Campus Center should be included in the exemption.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1859-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator King.

SCRep. 85-76 Higher Education on S.B. No. 1860-76

The purpose of this bill is to exempt from the civil service the household employees at the official residence of the President of the University of Hawaii.

The personnel director of the University of Hawaii testified in favor of the bill. He stated that positions for such household employees are presently covered by civil service and that the recruitment of employees is subject to civil service regulations. Normal civil service recruitment procedures are designed for the recruitment of personnel for general governmental operations, usually on a large-scale basis. These household employees, however, provide personalized services to the President of the University of Hawaii and his family.

The passage of this bill will place these household employees in the same employment status as other exempt employees.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1860-76 and recommends that it pass Second Reading and be referred to the Committee on Human Resources.

Signed by all members of the Committee except Senator King.

SCRep. 86-76 Higher Education on S.B. No. 1861-76

The purpose of this bill is to establish a duplicating services revolving fund into which the University of Hawaii at Manoa (UHM) shall deposit all receipts from the operation of a central copying and duplicating service available to all segments of the UHM, the fund to be used to defray all costs associated with the operation of the central copying and duplicating service, including the cost of immediate supervision.

Your Committee has received testimony on this bill, and finds as follows: The enactment of this bill will enable the UHM to better control the use of duplicating and photocopying services. The University administration, the Board of Regents and this Committee during the last session have expressed concern about the costs of reproducing materials. This concern resulted in an in-house review of these matters by the UHM, with the principal recommendation being the establishment of a revolving fund. Under this bill the University proposes to establish an auxiliary service which will create an internal accounting and charging mechanism and charge all users for services provided by the Central Duplicating Service.

The enactment of this bill should reduce the cost of duplicating and copying services throughout the campus by: (1) reducing the number and/or rental of photocopy machines rented by user departments and providing for greater use of the Central Duplicating Service, (2) creating cost consciousness among general fund users who are presently receiving central duplicating services without charge, and (3) enabling the Central Duplicating Service to provide better and faster service at reduced cost per page.

Your Committee notes that no additional appropriations for this operation are being requested. The initial working capital can be funded within the 1976-77 general fund

appropriations to the University.

Your Committee has made a minor change in the language of the act to make it clear that, while the service is located on the Manoa Campus, it may provide services to its off-campus operations. Therefore, the phrase, "available to all segments of the University on the Manoa campus" has been amended to read, "available to all segments of the campus."

Your Committee also heard testimony from the University that it would have no objection to having a dollar limitation placed on the balance that could be accumulated in the proposed revolving fund, and therefore has added the following sentence to the bill: "The fund may accumulate a balance of not more than \$150,000 as of June 30 of each fiscal year, provided that any amount in excess of \$150,000 as of June 30 of each fiscal year, provided that any amount in excess of \$150,000 shall be deposited into the general fund of the State."

Your Committee believes that this bill, as amended, will serve well the purposes of the State and the University of Hawaii.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1861-76, as amended herein, and recommends it pass Second Reading in the form attached hereto as S.B. No. 1861-76 S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator King.

SCRep. 87-76 Higher Education on S.B. No. 1864-76

The purpose of this bill is to repeal Section 304-22, Hawaii Revised Statutes.

Section 304-22 was intended to insure that the Department of Public Instruction would not discriminate in its treatment of Normal School graduates already employed.

The Normal School was merged with the University of Hawaii in 1931. This legislation was then designed to care for students and graduates of the Normal School who might be caught in the transition. It does not seem likely that after 45 years there could be any individuals remaining in service requiring such transitional protection. Section 304-22 is obviously archaic and should be removed from the statutes.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1864-76 and recommends that it pass Second Reading and be referred to the Committee on Human Resources.

Signed by all members of the Committee except Senator King.

SCRep. 88-76 Higher Education on S.B. No. 2132-76

The purpose of this bill is to appropriate monies out of the general revenues of the State of Hawaii for the acquisition of the Navy drum storage area for the expansion of Leeward Community College, Oahu.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2132-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator King.

SCRep. 89-76 Higher Education on S.B. No. 2177-76

The purpose of this bill is to appropriate monies out of the general revenues of the State of Hawaii for the comprehensive training program (University Without Walls).

Although the Committee has approved the funding of this program for 1976-77, it is doing so with the understanding that the University of Hawaii will present a practical and well-reasoned program for the granting of an external degree in harmony with the open university concept prior to the next legislative session.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2177-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator King.

SCRep. 90-76 Higher Education on S.B. No. 2347-76

The purpose of this bill is to appropriate monies out of the general revenues of the State of Hawaii for intercollegiate athletic programs for the community colleges.

In view of the athletic funding approved for the Manoa Campus, the Committee feels it only fair to approve this measure which will allow the community colleges to expand their limited program of intercampus athletic competitions.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2347-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator King.

SCRep. 91-76 Higher Education on S.B. No. 2432-76

The purpose of this bill is to appropriate monies out of the general revenues of the State of Hawaii for the continuation of the operation of the programs of the Pacific and Asian Affairs Council.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2432-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator King.

SCRep. 92-76 Higher Education on S.B. No. 2596-76

The purpose of this bill is to appropriate monies out of the general revenues of the State of Hawaii for the plans and construction of additional portable classrooms, modification to existing facilities, incremental construction of utilities, sitework and other minor improvements at Hilo College and Hawaii Community College.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2596-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator King.

SCRep. 93-76 Legislative Management

Informing the Senate that S.C.R. No. 62, S.R. Nos. 246 to 253, Spec. Com. Rep. No. 15 and Stand. Com. Rep. Nos. 94-76 to 115-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 94-76 Consumer Protection on S.B. No. 2501-76

The purpose of this bill is to update and strenghten existing provisions relating to the licensing and other legal obligations of secondhand dealers.

In the form amended herein, this bill requires secondhand dealers to obtain signed written statements from whom they purchase secondhand articles, warranting that the seller is the legal owner and has the right to dispose of the property. Also, the present penalty for dealers who do not keep required records, is changed from a fine of not more than \$100 to that for misdemeanors under the Penal Code. Under the provisions of this bill, it is also a misdemeanor for anyone to falsify the required written statement.

It is estimated that thieves take over \$100,000 worth of materials annually from construction sites, supply houses, utilities, and certain government agencies. Some of these articles, such as lead pipes and copper wiring, are reportedly sold to secondhand dealers in the form of scrap. Although secondhand dealers are now required to record some information regarding the articles and the seller, they have no positive means to ascertain whether or not the goods are indeed "hot".

This bill requires the seller of an article to warrant that he is indeed the legal owner of the property, and creates a penalty for falsification of such a statement. The secondhand dealer will be required to check proper identification and record the



license number of any vehicle used to deliver the articles.

These measures are intended to discourage thieves by making it more difficult to convert stolen material. Also, it requires sufficient information to assist the police in their investigations.

The bill also clearly specifies that used stamps, coins, jewelry, and antiques fall into the definition of secondhand articles thus requiring dealers in these goods to comply with the licensing and other provisions of this section.

Your Committee on Consumer Protection is in accord with the intent and purpose of S.B. No. 2501-76, as amended herein and recommends that it pass First Reading in the form attached hereto as S.B. No. 2501-76, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 95-76 Higher Education on S.B. Nos. 2339-76, 2340-76, 2598-76, 2581-76, 2586-76, 2589-76, 2592-76, 2664-76, 2665-76 and 2733-76.

These bills appropriate monies out of the general revenues of the State of Hawaii for various projects at the University of Hawaii, Hilo Campus.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2339-76, S.B. No. 2340-76, S.B. No. 2598-76, S.B. No. 2581-76, S.B. No. 2586-76, S.B. No. 2589-76, S.B. No. 2592-76, S.B. No. 2664-76, S.B. No. 2665-76, S.B. No. 2733-76, and recommends that they pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators King and Yim.

SCRep. 96-76 Human Resources on S.B. No. 1608

The purpose of this bill is to exempt from coverage, service performed by an individual for a temporary help service company as a temporary employee provided the employee works less than twelve consecutive weeks of at least 20 hours per week.

Temporary help service companies provide a needed and valuable function in the business community by providing the employer with the necessary immediate labor services which may be required to temporarily replace personnel who may be absent due to illness, death in the family, vacations or temporary job vacancies. Your Committee feels that it remains economically unfeasible for temporary help service companies to commence coverage after the fourth week of employment since such employers are in business with temporary workers who normally work for a few weeks at most.

Your Committee has amended the bill by extending the qualification period from twelve consecutive weeks with coverage commencing on the thirteenth week to fourteen consecutive weeks with coverage commencing on the fifteenth week.

The purpose of this amendment is to aid temporary help service companies by requiring these employers to provide health care coverage only if the employee works beyond fourteen consecutive weeks of at least 20 hours per week. Your Committee believes this bill will alleviate the high cost of business operations which has drastically increased over the past few years. With this amendment, the Hawaii Prepaid Health Care Law would conform with the Unemployment Insurance and Temporary Disability Insurance Laws in the qualification period.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1608, as amended in the form attached hereto as S.B. No. 1608, 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. 97-76 Human Resources on S.B. No. 1895-76

The purpose of the bill is to provide certain retirement benefits for the assistant clerk of both houses of the legislature.

Your Committee finds that under present statutes, elected officers, judges, and chief

clerks are provided a retirement benefit with ten years of credited service regardless of age. The ordinary disability retirement allowance is not amended to provide similar benefits to the assistant clerk of both houses.

Your Committee further finds that the cost per year to provide this benefit would be approximately \$19,500 per year, with such cost to be reflected two years hence and thereafter.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1895-76, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 98-76 (Majority) Human Resources on S.B. No. 2225-76

The purpose of this bill is to give an employee the option to waive all or part of the required health care benefits provided by the employer or to agree to pay a greater share of premiums for such benefits than is required by Chapter 393, Hawaii Revised Statutes which deals with prepaid health care.

The original intent of the Prepaid Health Care Act was to provide protection for workers by requiring employers to provide a prepaid health care plan to protect employees against the high cost of hospital and medical care incurred by unexpected mishaps and illnesses. This bill would allow the individual to voluntarily waive coverage as provided by the employer.

Your Committee has amended the bill by allowing the employee the option to waive all of the required health care benefits if the employee can show evidence of coverage under a prepaid health care plan. Your Committee has further amended the bill by not allowing an employee who chooses to be covered under the employer's plan to agree to pay a greater share of the premiums for such benefits.

Your Committee further believes this bill should allow an employee who is covered under a personal health care plan to continue this coverage without also being required to pay for his employer's plan, thereby eliminating unwanted duplicate coverage. Your Committee believes that these amendments will retain present provisions that prevent any possible employer abuses and coercion.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2225-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2225-76, S.D. 1.

Signed by all members of the Committee. Senator Yamasaki did not concur.

SCRep. 99-76 Intergovernmental Relations on S.B. No. 2080-76

The purpose of this bill is to amend Section 281-14, HRS, to enable the Liquor Commission to destroy old records as provided in Section 46-43.

Your Committee finds that present laws do not permit destruction of certain Liquor Commission records, even though some may eventually be of no value, nor do the laws provide for the transfer of the records to a central depository outside of the Commission Office if such becomes practical or necessary in the future.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. 2080-76, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 100-76 Intergovernmental Relations on S.B. No. 2090-76

The purpose of this bill is 1) to reduce processing time for special permits, and 2) to authorize non-advisory county planning agencies to grant special permits.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2090-76, and recommends that it pass Second Reading and be referred to the Committee on Economic Development.

Signed by all members of the Committee.

SCRep. 101-76 Intergovernmental Relations on S.B. No. 2094-76

The purpose of this bill is to update the language of Section 101-2, HRS. to provide that with respect to the disposition of excess property acquired by a condemning authority, the "appropriate county zoning authority" rather than the "condemning authority", shall make the determination as to the applicability of zoning regulations to the excess property.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. 2094-76, and recommends that it pass Second Reading and be referred to the Committee on Economic Development.

Signed by all members of the Committee.

SCRep. 102-76 (Majority) Intergovernmental Relations on S.B. No. 2104-76

The purpose of this bill is to provide Grants-in-Aid to be matched by the county governments to promote community gardens on land leased or owned by the county governments.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. 2104-76, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee. Senator Kawasaki did not concur.

SCRep. 103-76 Public Utilities on S.B. No. 1840-76

The purpose of this bill is to provide an increase in the fee paid by motor carrier or private carrier of property for the safety inspection of each motor vehicle as required by the Commission's rules and regulations. The fee is raised from the present \$3.00 to \$7.00.

The present fee of \$3.00 was authorized by law in 1961, but the cost of labor, modernized and sophisticated inspection equipment, complex vehicular systems, and other requirements since 1961 have made it necessary to increase the safety inspection fee to a proposed \$7.00 for each safety inspection.

After weighing the testimonies presented on this bill, your Committee amended the bill in the following manner:

1. Reduced the proposed \$7.00 fee to \$6.00.
2. Reduced the fees which are based on maximum gross weight:
 

Less than 4,000 lbs	\$7 to \$6
4,000 lbs. or more and less than 6,000	\$8 to \$7
6,000 lbs. or more and less than 8,000	\$9 to \$8

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. No. 1840-76 as amended and attached hereto as S.B. No. 1840-76, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary for further consideration.

Signed by all members of the Committee.

SCRep. 104-76 Public Utilities on S.B. No. 1841-76

The purpose of this bill is to authorize the public utilities commission to effect service upon a motor carrier by publication in cases where the commission proposes to take action against a carrier's certificate and the carrier cannot be served personally or by registered or certified mail.

Under present law, a motor carrier's certificate or permit may be suspended, revoked or changed upon notice and hearing. In many cases, however, a motor carrier is no longer located within the state and the commission is unable to locate the carrier and, therefore, cannot give notice by registered or certified mail. This bill would allow the commission, in such cases, to serve notice by publication and proceed against the carrier's certificate.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. No.

1841-76 and recommends that it pass Second Reading and be referred to the Committee on Judiciary for further consideration.

Signed by all members of the Committee.

SCRep. 105-76 Health on S.R. No. 48

Your Committee finds that the purpose of the resolution is to provide for an integrated continuum of services geared to the needs of the individual in light of recent decisions of the circuit courts, U.S. Supreme Court and federal funding regulations which require the development of treatment programs for persons confined in State Institutions.

Your Committee reports that the Department of Health and the Department of Social Services is currently involved in the process of developing such individualized plans and furthermore that the aforementioned departments support the review of treatment and custodial services and the report of such information to the President of the Senate 90 days prior to the 1977 Regular Legislative Session.

Your Committee emphasizes the importance of the development of individualized treatment programs for all persons in State Institutions not merely as a requirement of the courts or federal regulations, but as a statement of commitment by the State of Hawaii to contribute to the development of our precious human resources. Your Committee further finds that recent efforts in rehabilitation indicate the hope of treatment and growth toward greater independence, responsibility and creativity for many persons formerly considered to be incapable of such growth.

Your Committee on Health is in accord with the intent and purpose of S.R. 48 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 106-76 Judiciary on S.B. No. 2105-76

The purpose of this bill is to provide for a second judge for the Second Circuit.

Your Committee finds that the Circuit Court of the Second Circuit is the State's only circuit whose jurisdiction entails regular interisland travel. Said Court services a population of approximately 53,018 with court proceedings held in Wailuku, Maui, and semi-annual sessions on Lanai and Molokai.

At the beginning of the fiscal year 1974-75 the Second Circuit had a total of 1,531 cases pending. As of June 1, 1975, this pending caseload increased 15.87 per cent to 1,774 cases. This increase represents 1,301 cases pending in the Circuit Court proper and 473 cases pending in the Family Court for fiscal year 1974-75.

During the same fiscal year, new case filings in the Circuit Court of the Second Circuit totaled 1,999 cases, an increase of 6.73 per cent from the prior fiscal year total of 1,873 cases. This increase is attributable to 862 cases filed in the Circuit Court proper and 1,137 cases filed in the Family Court for fiscal year 1974-75.

Terminations on the other hand, decreased 6.70 per cent from 1,882 cases disposed in fiscal year 1973-74 to 1,756 in fiscal year 1974-75. This decrease is reflective of 719 cases terminated in the Circuit Court proper and 1,037 cases terminated in the Family Court in fiscal year 1974-75.

As a result of the increased filing rate and decreased termination rate, the backlog of cases increased 26.8 per cent from 373 in fiscal year 1973-74 to 473 in fiscal year 1974-75.

District Court judges, as an alternative to increased caseload activity, continue to give assistance with the Family Court calendar, but more assistance is needed to provide the judicial services necessary to maintain a current status.

The increasing number of cases pending at the end of each fiscal year indicates that the current judge and staff serving Maui court's 53,018 population is insufficient to safeguard the rights and interests of persons by assuring an equitable and expeditious judicial process. It should be noted that the number of cases filed and pending is approaching the caseload of the Third Circuit (Hawaii) which was a complement of two judges and staff.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No.

2105-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 107-76 (Majority) Judiciary on S.B. No. 2107-76

The purpose of this bill is to provide statutory authority for three law clerks for the chief justice of the Supreme Court and two law clerks for each associate justice of the Supreme Court.

Your Committee finds that the law clerks give research support to the court. There has been substantial growth in case activity in the Supreme Court with a doubling of the caseload in the last decade. An increase in legal staff support for the court will enable the justices to concentrate their efforts in reaching judicial decisions while much of the time-consuming legal research is assigned to law clerks.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2107-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee. Senators Kawasaki and George did not concur.

SCRep. 108-76 Judiciary on S.B. No. 2036-76

The purpose of this bill is to provide funds from the general revenues of the State to be expended by the Chief Justice of the Supreme Court to fulfill the purposes of the Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings, Chapter 836, Hawaii Revised Statutes, as amended.

Under existing law if a material witness is summoned to attend and testify in this State, a sum equivalent to the cost of round-trip air fare to the place where the prosecution is pending and \$30 for each day that he is required to travel and attend as a witness is required to be tendered to him. Presently there exists no funds to implement the law.

Your Committee finds that the sum of \$25,000 is appropriate to carry out the purposes of this bill; and therefore, recommends that this bill be amended by inserting that amount.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2036-76 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2036-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 109-76 Judiciary on S.B. No. 2321-76

The purpose of this bill is to amend the existing law by authorizing the appointment of a Deputy Administrative Director of the Courts, subject to Chapters 76 and 77, Hawaii Revised Statutes. The bill also provides for a second deputy sheriff.

The Administration Office of the Department of Judiciary completed a six-month survey and analysis of its functions in the fall of 1975. Included in this review was a comparison with the organizational structure of Executive Branch departments. One point brought out by the review and comparison is that the Judiciary is larger than twelve Executive Branch departments.

At the conclusion of this effort the Administration Office was reorganized to provide for a position of Deputy Administrative Director of the Courts. The position description is in the final stages of being approved by the Department of Personnel Services under its authority to reclassify with the existing civil service structure.

Your Committee desires to create an equity between the compensation for this position and similar positions in the Executive Branch. This bill provides for such equity by authorizing the appointment of a deputy administrative director position subject to said Chapters 76 and 77, and provides for a salary comparable to similar positions in the Executive Branch.

This bill provides for an additional first deputy which would allow for civil and criminal

matters to be split within the Office of Sheriff. The Office of Sheriff was transferred to the Judiciary in 1975. An initial review of the functions indicates that supervisory control needs to be upgraded to effect a higher degree of efficiency. The first deputy will be responsible for the civil matters while the second deputy will be responsible for the criminal matters. The second deputy shall be on equal status with the first deputy. Your Committee feels that this will provide a degree of control that would greatly improve the services of the Office of Sheriff.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2321-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 110-76 (Majority) Judiciary on S.B. No. 2830-76

The purpose of this bill is to amend the existing law by raising the maximum salary of the Revisor of Statutes from \$25,000 to \$37,500 a year effective July 1, 1976.

Your Committee finds that there is a gross imbalance between the salary fixed for the Revisor of Statutes and the salaries established for other positions.

The Senate Committee on Judiciary, in reporting out S.B. No. 512, which became Act 191, Session Laws of Hawaii 1959, which established the Office of Revisor of Statutes, stated:

"Your committee believes that the salary of the revisor should be sufficient to attract a well qualified person and suggests a salary comparable to that paid the assistant attorney general. . . . (Standing Committee Report No. 63)

The Office of Revisor of Statutes is a legal position. Its basic concern is statutory revision. Statutory revision is the function of organizing the ever-growing bulk of laws into an orderly system so that the laws can be more easily found, understood, applied, and changed. It involves the harmonizing of the language of the entire body of statute law and the elimination of duplications and contradictions, and executed and other obsolete provisions. It involves adjusting the acts and parts of acts judicially declared invalid and the provisions of law impliedly amended or repealed. It means executing these functions without changing the substance or effect of the existing law. Thus it involves the exercise of judgment on legal questions and goes well beyond mere matters of form, style, and accuracy of reference. These functions call for a person with legal qualifications or training--a person with good general competence in the law, with skill in statutory interpretation, in drafting, and in exacting editorial work.

Your Committee finds that the salary for the position of the Office of Revisor of Statutes should be adjusted so that it is commensurate with the duties and responsibilities of the position and in line with the salaries provided other positions in the public service.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2830-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee. Senator Kawasaki did not concur.

SCRep. 111-76 Judiciary on S.B. No. 2932-76

The purpose of this bill is to provide for a twelfth judge for the District Court of the First Circuit primarily to hear landlord-tenant and small claims matters.

Your Committee finds that the traffic trials have been backlogged 90-100 days because one District Court judge must be assigned to hear landlord-tenant and small claims matters. The addition of another judge to the complement of the District Court of the First Circuit would enable that Court to bring its trials to a more current basis. Furthermore, uniformity in decisions in landlord-tenant cases will hopefully be achieved by the passage of this bill. To achieve that uniformity, your Committee recommends that the twelfth judge submit written decisions in appropriate cases. This bill anticipates a request for a twelfth judge which the Department of the Judiciary had planned to make in its 1977-79 budget request.

Your Committee recommends that the bill be amended by inserting in the appropriate section the sum of \$88,000 to be expended by the Department of the Judiciary for the purposes of this Act. This sum includes the salaries of the District Court judge, reporter,

clerk, and the necessary equipment and facilities for said personnel.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2932-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2932-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 112-76      Judiciary on H.B. No. 2099-76

The purpose of this bill is to provide for replacement volumes of the Hawaii Revised Statutes as a means of updating the Hawaii Revised Statutes and eliminating the need for a bulk revision of the laws of the State.

When the Hawaii Revised Statutes was enacted and published in a set of eight volumes, it was planned that the Hawaii Revised Statutes would be retained as long as possible by updating it on an annual basis by pocket supplements and when such pocket supplementation becomes impracticable by publishing substitute or replacement volumes.

This bill would initiate the replacement program by authorizing the Revisor of Statutes to replace the present volume 4. All the statutes in force contained in the volume and its 1975 pocket part, together with the laws enacted at this session and classified to volume 4 would be republished in a new volume 4 and volume 4A. Five thousand copies of each volume would be printed, assuring a supply for about 10 years.

In addition, the bill would amend Chapter 2, Hawaii Revised Statutes, to expressly provide for the preparation, publication, sale and distribution of replacement volumes. In the future, replacement volumes can be authorized by the inclusion of sufficient funds in the annual appropriations made for defraying the expenses of the Revisor's office.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2099-76, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 113-76      Consumer Protection on S.B. No. 1782-76

The purpose of this bill is to amend Chapter 521, Hawaii Revised Statutes, Hawaii's Residential Landlord-Tenant Code.

The bill, as amended herein, modifies the Landlord-Tenant Code in the following manner:

1. Section 521-42

This bill requires that prior to the initial date of occupancy, the landlord shall inventory the premises and make a written record detailing the condition of the premises and any furnishings or appliances provided. This amendment is intended to protect both the landlord and tenant from false, inaccurate, or misleading claims regarding the condition of the premises at the commencement of the tenancy.

2. Section 521-43

Presently, this section requires the landlord to make certain disclosures as to the owner or his agent in writing to the tenant. This bill adds a new subsection to permit the landlord to satisfy the disclosure requirements by posting the information, in an elevator or other conspicuous place, in the case of single-owner, multi-unit structures. If there is more than one owner of a multi-unit dwelling structure, the information may be posted in a conspicuous place within the unit.

3. Section 521-45

Presently, under this section, a landlord who sells a rented unit is relieved of any liability arising under the rental agreement. The proposed amendment requires that the landlord notify the new owner in writing of the existing rental agreement in order to be relieved of any liability arising from the rental agreement. The purpose is to clearly define responsibility in order to prevent the situation of the tenant not knowing who is responsible under the rental agreement.

4. Section 521-61

Presently, this section requires the landlord to put the tenant into possession of the unit at the beginning of the agreed term, but does not specify that such possession transfer must be "in the agreed condition". This amendment would conform these two sections in order to provide the tenant remedies for noncompliance.

5. Section 521-64

This section presently deals with repairs made in the rental unit by the tenant and emphasizes cost rather than the urgency of the repairs. This amendment sets up three categories of repairs based on their seriousness and urgency: (1) emergency repairs to correct imminent threat to health or safety; (2) health or safety violations; and (3) other necessary repairs. The tenant may deduct up to \$200 or one month's rent, whichever is greater, to have the emergency repairs done.

6. Sections 521-69 and 521-72

These sections currently allow the landlord to begin proceedings to evict a tenant who is in material noncompliance with the rules regulating the use and maintenance of the premises. This requirement has proven impractical and the specified period of time is too long, causing inconvenience and damage not only to the landlord, but in many cases, to other tenants within the same structure. This bill reduces this waiting period from thirty to fifteen days to enable the landlord to remedy the situation more expeditiously.

Your Committee finds that the review, reevaluation and revision of comprehensive laws such as the Residential Landlord-Tenant Code are in the best interests of Hawaii's landlords and tenants and recommends that this be a regular activity. The Committee also recommends that to keep the Code relevant and meaningful, special attention be paid to changes in the conditions which necessitated its enactment.

Your Committee on Consumer Protection is in accord with the intent and purpose of S.B. No. 1782-76 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1782-76, S.D. 1 and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 114-76 Consumer Protection on S.B. No. 1786-76

The purpose of this bill is to enable the Office of Consumer Protection to obtain restitution for consumers who file complaints with the agency even after a law suit has been filed with the court.

Last session, the Legislature passed Act 99 which was intended to grant to the courts discretionary powers to afford restitution to consumers who sustain damage as a result of an unlawful act subject to an action filed by the Office of Consumer Protection. Since enactment, this provision has proven to be restrictive in its scope, and denies certain consumers restitution.

Your Committee, however, feels that the courts possess inherent powers to award restitution where appropriate without statutory authorization, and therefore amended the bill to repeal Section 487-14, Hawaii Revised Statutes.

Your Committee on Consumer Protection is in accord with the intent and purpose of S.B. No. 1786-76 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1786-76, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 115-76 Consumer Protection on S.B. No. 1838-76

The purpose of this bill is to amend Chapter 294, Hawaii Revised Statutes, the Hawaii no-fault law. The proposed amendments vary from those of a housekeeping nature intended to improve the operation and administration, to those which may have a direct impact regarding benefits to the consumer.

The provisions of this bill as amended herein, modify the no-fault system in the following manner:



1. The definition of "accidental harm" in Section 294-2 is amended to conform to changes made in Section 294-4 by the Legislature last session. Both sections deal with pedestrians who are injured by a motor vehicle. This proposed amendment removes the provision that an injured pedestrian is one who is "struck by" a motor vehicle.

2. The definition of "insurer" in Section 294-2 is amended from every person engaged in the business of making contracts of motor vehicle insurance, etc., to every person who is authorized or licensed to engage to do so. Certain insurers have interpreted the present definition of "insurer" as being applicable only to those actively engaged in the writing of motor vehicle insurance in Hawaii. The proposed amendment clarifies that all provisions of the no-fault law apply to all insurers authorized or licensed to transact motor vehicle insurance business in Hawaii.

3. The definition of "monthly earnings" in Section 294-2 reimbursable by no-fault, is amended from one-twelfth of a person's annual earnings, to 85% of one-twelfth of a person's annual earnings. Presently, the law requires that 100% of a person's monthly earnings be reimbursed up to \$800. The amount which is paid out is a gross amount and one which does not include normal deductions for taxes, etc. The worker's compensation wage-loss replacement program presently pays 66 and 2/3% of a person's monthly earnings and it is usually standard in most accident and health policies to compensate an injured person slightly less than what he would net in order to avoid the situation of a person getting an amount equal to or more than his monthly income by remaining off the job. The intent of this amendment is to reduce the costs of no-fault by paying out less as replacement income and by providing an incentive to return to work as soon as possible.

4. This definition of "no-fault benefits" in Section 294-2 is amended to clearly state that substitution services which may be provided through no-fault benefits do not include those to maintain or generate income.

5. Subsection 294-5(b) presently provides that no-fault benefits are secondary and not of any benefits a person receives from social security, worker's compensation, or public assistance. Some insurers have interpreted this provision to further authorize reductions in a claimants' no-fault wage loss benefits by the amount of medical benefits received through social security. Also, the present provision allows claimants to seek no-fault benefits on a primary basis by declining to receive similar benefits available to him. This was not the intent of the Legislature regarding the secondary nature of no-fault benefits. This bill amends this section by expressly providing that no benefits are to be paid secondary and net of any identical benefits a person is entitled to receive from social security, worker's compensation or public assistance.

6. The proposed amendment to sub-section 294-5(d) will conform the same to sections 294-4 and 294-2(1) by eliminating the earlier mentioned "struck by" requirement relating to pedestrians as it applies to the primary of no-fault benefits to injured pedestrians.

7. Section 294-7 presently provides that the no-fault insurer be subrogated to 50 per cent of the amount of all no-fault benefits paid to an injured person who effects tort liability recovery for accidental harm. The proposed amendment would allow an insurer or self-insurer to recover 100 per cent of no-fault benefits paid. Prior to no-fault, the injured person had to advance medical and other expenses until time favorable judgment is obtained. The system favored the affluent and tended to force the less affluent to settle for a lesser amount. Presently, this situation has been eliminated and all expenses are paid in full up to a basic limit of \$15,000, paid by the insurer, of which only 50% may be recovered after a successful tort liability recovery action by the injured. This leads to unfair enrichment of the injured party since he keeps an amount 50% over and above his economic expenses and losses. This "bonus" is inconsistent with the intent to stabilize or decrease insurance rates by reducing the costs of the no-fault system.

8. This amendment to subsection 294-8 (a) (1) to clarify the intent that notwithstanding benefits under social security, worker's compensation or public assistance, all no-fault benefits and coverages, shall be primary and no insurer can enter into an agreement in which the no-fault policy becomes excess to other collectable automobile insurance policies involved. This measure will provide added protection for the consumer.

9. Section 294-9 presently provides that cancellation notices be mailed by certified or registered mail, deliverable only to the addressee. While the intent of this provision was to guarantee delivery of the cancellation notice, this requirement has caused many problems and delays for both consumers and insurers. The proposed amendment would require that the cancellation notices be sent and that a certificate of mailing be used. This would provide adequate safeguards for the consumer while reducing the delays

and costs entailed by the present procedure.

10. Section 294-11 presently requires a minimum bodily injury liability limit of \$25,000 per person with no aggregate or occurrence limit. This guarantees every injured person eligible, tort access of at least \$25,000 of coverage. This unlimited exposure has caused some problems primarily for local companies in negotiating proper reinsurance when the insured desires higher liability than the minimum, such as \$100,000 per person. With an unlimited loss potential, it leaves the company open to possible catastrophic losses. This results in higher reinsurance rates for the consumer and a reluctance of insurers to write higher limit policies.

The amendment would permit an aggregate limit for the larger policies, but in no event would it be less than \$25,000 per person, since this would apply only in situations where an unusually large number of persons are injured.

11. Subsection 294-13 (j) is amended to conform it to amendments to the open rating section enacted under Act 113, Session Laws of Hawaii, 1975. To remain consistent, the applicable dates with respect to the Commissioner's rate-making powers are accordingly revised.

12. This bill proposes to delete subsection 294-13 (m), which mandates a 10% discount in rates to full-time students.

Prior to the enactment of the no-fault provisions in 1974, insurance companies used age as one factor in establishing rates. Usually, this led to a form of discrimination against young drivers in the form of rates considerably higher than those charged older drivers. Discriminatory rating practices have since been prohibited and with the 10% discount younger drivers have been afforded great savings in premiums.

Younger drivers, however, still account for a disproportionate amount of accidents and fatalities and the losses generated, and the reduction in rates, have had to be absorbed in the rates charged to older, safer drivers.

The student discount is, therefore, a form of discrimination, against the larger majority of consumers. Also, enactment of the student discount has led the way for other groups, possibly as deserving of consideration, to clamor for additional reductions, all to be supported through higher premiums.

13. Subsection 294-21 (c) is amended to provide that the Joint Underwriting Plan Board of Governors shall meet at least quarterly. Presently, the Board is required to meet at least monthly, however, the Board members are in unanimous agreement that such monthly meetings are not required.

Your Committee believes that through regular review and reevaluation of the Hawaii Motor Vehicle Accident Reparations Act, the no-fault system will remain relevant and meaningful in protecting the interests and welfare of Hawaii's consumers.

Your Committee on Consumer Protection is in accord with the intent and purpose of S.B. No. 1838-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1838-76, S.D. 1 and and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 116-76 Human Resources on S.B. No. 1807-76

The purpose of the bill is to convert certain exempt positions which are non-military in character to civil service positions within the meaning of Chapters 76 and 77, Hawaii Revised Statutes.

Your Committee finds that under the present statutes, the nature of their duties requires that they be active members of the Hawaii National Guard. Your Committee also finds that membership in the National Guard can be terminated for many reasons unrelated to job performance or beyond the control of the personnel involved.

Your Committee further finds that due to the limited military characteristics and the relatively similar duties of other classified positions in the Civil Service System, reclassification of these military positions from exempt to classified status would provide the Department with a wider choice of qualified applicants and provide job security for the incumbent that does not now exist.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1807-76, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 117-76 Legislative Management

Informing the Senate that S.C.R. Nos. 63 to 65, S.R. Nos. 254 to 261, Gov. Msg. No. 108 and Stand. Com. Rep. Nos. 118-76 to 129-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 118-76 Health on S.B. No. 251

The purpose of this administration bill is to insure that the Hawaii Tumor Registry will be able to receive reports of all cancer diagnosed or treated in the State. At present it receives such reports chiefly from hospitals, and frequently after the patient has been discharged or after his death.

The research aspects of the Registry are to study cancer incidence, associations, and survival in different geographical areas, occupations, ethnic groups, etc.

The testimony of the State Department of Health stated that skilled nursing homes are now prohibited by Federal regulations from furnishing any personal and medical information to any individual outside of the facility unless "required by law" or with the patient's explicit consent.

Your Committee finds that the work of the Cancer Center of Hawaii depends heavily on the data resources of the Hawaii Tumor Registry, which is one of a number in the country supported by the National Cancer Institute. Your Committee considers that mandatory reporting of cancer on the part of all medical care facilities is crucial and points out that at least 23 states now make cancer a "reportable" disease. This data, when reported, will be valuable to patients, physicians, and for cancer research.

Your Committee is satisfied that the data will be kept confidential and that the privacy of patients will be maintained by the reports.

The State health department recommends S.B. No. 251 to make continued reporting of all cancer cases possible under changing Federal laws.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 251 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 119-76 Health on S.B. No. 2141-76

The purpose of the bill is to amend the Hawaii Revised Statutes, Chapter 328, Part IV, to include the mandatory enrichment of rice in conformity with the Federal Definitions and Standards of Identities. This action will improve the nutritive value of a widely used staple food.

Hawaii has had enrichment laws for flour and bread since 1945 but there is no provision for the enrichment of rice. In Hawaii, the annual per capita consumption of unenriched rice is 78 pounds per capita compared to only 6 to 7 pounds per capita in the other states. Enrichment is the addition of specific nutrients to a food. The amounts added are generally moderate and restore nutrients which are naturally present but have been destroyed or lost in processing. In the enrichment of rice, iron and the B vitamins are added by the rice millers at the time the rice is being processed. Dietary studies show a prevalence of low intake of iron and thiamin among low-income families.

Your Committee on Health finds that the enrichment of rice will provide better nutrition to the population of Hawaii without the necessity of extensive efforts to change food consumption patterns, and at a minimal cost to the consumer.

Other areas which have enrichment laws that include rice are Arizona, California, Connecticut, Florida, New York, South Carolina, Utah, Washington, Guam and Puerto Rico.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2141-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 120-76 Health on S.B. No. 2294-76

The purpose of this bill is to provide a permanent vehicle for citizen input into the health planning process, so that the health services plan of the State will be based on informed decision-making.

The bill adds a new part to chapter 323D, Hawaii Revised Statutes, the State enabling health planning legislation responding to Public Law 93-641, the National Health Planning and Resources Development Act.

Your Committee finds that health planning in the State would be greatly enhanced through the establishment of a system of subarea advisory councils constituted in a manner consistent with Public Law 93-641. With such a system, the state agency that proposes new health plans is required to consider the recommendations of the subarea councils. Your Committee also finds that it is important that the state agency inform the subarea councils of health issues at the front end of the planning process, to take full advantage of the citizen participation process, and in recognition of the existence of health planning experience at the neighborhood level. This experience is a valuable resource and should not be wasted.

Your Committee finds that the existing law allows the establishment of a system of subarea advisory councils. This bill amends the law and mandates their establishment. The bill also provides for the staffing and funding of these councils.

Your Committee has amended the bill by deleting the specific geographic breakdown for subarea councils, to provide greater flexibility in their establishment, to best provide for the health needs of the State.

The bill has also been amended to require that recommendations of the subarea councils be appended to the health systems plans to which they relate, and in the event the recommendations are not incorporated into the plan, an explanation thereof is required to be attached to the plan also.

The bill has been further amended to ensure that subarea councils are provided reasonable and adequate time for consideration of plans and proposals submitted to them.

Your Committee has further amended this bill by recognizing the exempted status of Hawaii from the normal requirement of health systems agencies under Public Law 93-641.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2294-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2294-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 121-76 Health on S.B. No. 2295-76

The purpose of this Act is to provide a grant-in-aid to The House, Inc. for the purpose of providing a community-based, residential social rehabilitation program as an alternative to hospitalization of socially and emotionally disabled persons. The appropriation is contingent upon The House, Inc. obtaining matching funds for the same purpose from the federal government under Title XX.

Your Committee supports a policy of deemphasizing institutionalization in the treatment of persons suffering from mental illness. Your Committee has found that the Mental Health Division of the Department of Health has worked cooperatively with the Mental Health Association of Hawaii and The House, Inc. in the development of this social rehabilitative residence as either an alternative to initial hospitalization or as a place to provide early release after hospitalization for those persons needing a supportive, growth-oriented environment.

Your Committee further finds that as a private, non-profit corporation, The House, Inc.,

which has been in operation for three years, has provided a successful and creative experiment in the social model of rehabilitation at a per client cost much below that of hospitalization. By providing an atmosphere of high expectancy to stimulate growth toward self-sufficiency and the assumption of greater responsibility, The House, Inc. has developed a viable alternative to hospitalization.

Your Committee is in accord with the intent and purpose of S.B. No. 2295-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 122-76 Health on S.B. No. 2296-76

The purpose of this appropriation is to conduct a study to determine how a state-wide, community-based, residential program, based on a social rehabilitation or education model, might be developed and phased into the mental health care program of the State of Hawaii. The plan shall identify the target group of persons who would be best served by this program, determine the type and number of programs needed, develop a scheme to provide a continuum of alternatives to hospitalization and a timetable to decrease the resident population at Hawaii State Hospital and to develop an accurate cost-benefit statement for a period of five years.

Your Committee finds that this study is a necessary step in the development of a total program of treatment and care for persons suffering from emotional or social disabilities. Your Committee further finds that the development of such alternatives to hospitalization will be necessary as recent court decisions mandate a continuum of treatment facilities running from more to less restrictive situations.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2296-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 123-76 Ways and Means on S.B. No. 1744-76

Your Committee on Ways and means has considered S.B. No. 1744-76 and recommends that it pass First Reading by title and be recommitted to the Ways and Means for further consideration.

Signed by all members of the Committee except Senators Hara, King, Kuroda and O'Connor.

SCRep. 124-76 Human Resources on S.R. No. 133

The purpose of this resolution is to request the Legislative Reference Bureau to conduct an in-depth study of the feasibility of an integrated services approach to Human Services.

Your Committee finds that Human Services encompasses a subject which is vast in content and include those fields relating to Health, Education, Employment, Welfare, and many other services. Integrating these different services poses many problems which need to be resolved.

Your Committee further finds that the proposed study would address itself to these problems and would be valuable in determining whether the concept of integrated human services is feasible in terms of implementation.

Your Committee on Human Resources is in accord with the intent and purpose of S.R. No. 133 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 125-76 Human Resources on S.R. No. 177

The purpose of this resolution is to urge the Congress of the United States to systematically monitor the requirements of the various states and to authorize all necessary federal funding support to such states as Hawaii which have responded so generously to the needs of its underprivileged residents. The resolution further calls on the Hawaii Congressional delegation to actively support federal legislation and policies designed to reimburse states for program servicing this group.

Your Committee finds that historically, Hawaii has always welcomed immigrants to its islands and as a result, this State has gained economically by their diligent labor and diverse arts and values.

Furthermore, your Committee finds that Hawaii has assumed its responsibility of meeting the social welfare needs of this group through many tax-supported programs, including public assistance payments, medical care and social services administered by the Department of Social Services.

Your Committee recognizes that the Department of Social Services does not intend to abdicate its responsibility in the provision of benefits and services. However, continued and additional federal program support are essential in view of the increasing numbers of immigrants and refugees that have chosen Hawaii as their permanent residence.

Your Committee on Human Resources is in accord with the intent and purpose of S.R. No. 177 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 126-76 Human Resources on S.B. No. 2029-76

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii, the sum of \$150,000 for the bilingual health aide program whose federal funds will expire June 30, 1976.

Your Committee finds that the program was first funded in August, 1973 by the federal ACTION program VISTA for up to three years. The program has been reviewed and approved for continuation of funding annually. A total of \$428,000 in federal funds has been received during the three years.

Your Committee further finds that target groups of the project have been immigrants of Filipino, Korean, and Chinese descent and in-migrants from Samoa. During the first year, services were provided in selected areas of Oahu, but in succeeding years, services were provided on all islands. At present, there are ten positions located on Oahu and eight on the neighbor islands with a resident aide on each populated island.

Your Committee recognizes the need for bilingual outreach aides to assist newly-arrived immigrants and to assist many departmental programs working with immigrants. The majority of new cases of certain infectious diseases, particularly tuberculosis and leprosy, have been among immigrants from countries where the prevalence of these diseases is high. Other health problems such as gum diseases and decayed teeth, anemia, and malnutrition were found to be common among immigrants. Moreover, immigrants have problems securing adequate health care because they are unfamiliar with Hawaii's health care system and because of language problems.

Your Committee is amending the bill by revising the \$150,000 to \$104,000 because of a two-month extension in federal support, providing funds till September 30, 1976.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2029-76 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2029-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 127-76 Human Resources on S.B. No. 1832-76

The purpose of the bill is to clarify the language of Section 76-16(14), Hawaii Revised Statutes, which deals with Civil Service and Exemptions, to reflect that positions filled by students are exempt from the Civil Service law, and to delete references to an obsolete Federal law.

Your Committee finds that Titles 1 and 2 of the Federal Manpower Development and Training Act of 1962, to which 76-16(14) makes reference, have been superseded by the Comprehensive Employment and Training Act (CETA) of 1973, necessitating deletion from the Hawaii Revised Statutes.

Your Committee has amended the bill to remove the obsolete language that is used in the present statutes and to clarify the present Civil Service Law which deals with exemptions. The purpose of the amendment is to ensure that present and future positions

filled through federally funded programs which provide temporary public service employment are clearly exempted from Civil Service.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1832-76, as amended in the form attached hereto as S.B. No. 1832-76, 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. 128-76 Human Resources on S.B. No. 2024-76

The purpose of the bill is to provide employees excluded from collective bargaining, sabbatical leaves and with pay equal to one-half of the basic compensation which he was receiving at the commencement of the leave.

Your Committee finds that excluded employees who are granted sabbatical leave are entitled to receive the difference between their existing pay and the pay of the minimum step of the salary range (substitute pay), with payment being made upon the return of the employee from sabbatical leave. Your Committee also finds that payment could be as little as five percent of the employee's normal pay and the Committee feels that most employees do not have the financial resources to leave active employment to pursue professional improvement under the current practice.

Your Committee further finds that while only a relatively few employees will elect to go on sabbatical leave, the inducement offered must be realistic enough to encourage employees to take advantage of opportunities to gain additional education, improve professional competence, and, hopefully improve the quality of public service rendered due to these times of rapidly changing conditions.

Your Committee on Human Resources in accord with the intent and purpose of S.B. No. 2024-76, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 129-76 Human Resources on S.B. No. 2334-76

The purpose of this bill confers official status and authority upon the investigators of the Department of Social Services and Housing to enable them to secure access to governmental records in connection with administration of public assistance.

Your Committee finds that lack of access to records on whereabouts of non-supporting parents and their financial status would preclude an effective Child Support Program, thereby preventing recovery of millions of dollars per year in support payments.

Your Committee further finds that enabling investigators to gain access to governmental records is vital to correct and proper determination of recipient eligibility for public welfare benefits. Information secured is used only in connection with program administration; it remains confidential to the Department of Social Services and Housing in accordance with Section 346-10, HRS, Confidentiality of Records.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2334-76 and recommends that it pass Second Reading and be placed on the Calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 130-76 Legislative Management

Informing the Senate that S.C.R. Nos. 66 and 67, S.R. Nos. 262 to 264 and Stand. Com. Rep. Nos. 131-76 to 232-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 131-76 Economic Development on S.R. No. 149

The purpose of this resolution is to request the Governor to consider declaring the Waianae coast a disaster area as a result of the damage caused by the recent rain and floods. The resolution further requests that upon the Governor's declaration appropriate

action be taken to establish disaster relief centers for residents to apply for and inquire about relief programs and benefits. The City and County of Honolulu is urged to take immediate action to aid the people of this area, and the members of Hawaii's congressional delegation are requested to investigate the possibility of federal disaster funds.

Your Committee finds that, due to the recent storm and heavy rainfall, the Waianae coast area has suffered extensive property damage in excess of \$1 million. Moreover, at least 250 persons had to be evacuated from their homes by the Hawaii National Guard to evacuation centers as a result of flooding in the Waianae area. The rainfall and flooding have resulted in several incidences of impassable road conditions, weakened and impassable bridges, landslides and interrupted telephone and electrical services in the area. Your Committee further finds that the extensive flooding has effected the economic well-being of the area by damaging the current produce crop as well as business and commercial properties. Your Committee feels that it is the responsibility and concern of the State that the residents of the Waianae coast be afforded every possible aid during their period of hardship.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 149 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 132-76      Economic Development on S.B. Nos. 2353-76, 2354-76, 2355-76, 2356-76, 2357-76, 2358-76, 2359-76, 2365-76, 2366-76, 2367-76, 2368-76, 2369-76, 2370-76, 2373-76, 2374-76, 2375-76, 2376-76, 2377-76, 2378-76, 2379-76, 2380-76, 2381-76, 2383-76 and 2384-76

The purpose of these bills is to provide the necessary funds to install or replace water mains and to make general improvements to the existing water distribution system in various areas of Oahu.

In a public hearing, your Committee has examined the information offered in testimony and finds that the new water lines will replace old inadequate facilities and improve pressure and fire protection conditions in the mentioned areas.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. Nos. 2353-76, 2354-76, 2355-76, 2356-76, 2357-76, 2358-76, 2359-76, 2365-76, 2366-76, 2367-76, 2368-76, 2369-76, 2370-76, 2373-76, 2374-76, 2375-76, 2376-76, 2377-76, 2378-76, 2379-76, 2380-76, 2381-76, 2383-76, 2384-76 and recommends that they pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 133-76      Economic Development on S.B. No. 1791-76

The purpose of this bill is to bring about greater participation by private lenders to extending credit to farmers. The bill proposes to allow the Department of Agriculture to establish maximum interest rates chargeable by private lenders for loans insured by the Department consistent with the lenders' going rate for similar loans.

The existing Farm Loan Act, as amended, restricts the interest rate chargeable by private lenders to two per cent above the prime rate. Private lenders are often unwilling to participate when the maximum chargeable interest does not provide a reasonable yield. This lack of participation becomes more pronounced during times of "tight money". Presently, due to the restrictive interest ceiling placed on private lenders, activity under the insured loan program is practically nonexistent.

Your Committee feels that this bill will induce private lenders to extend credit to farmers more readily, and thus, ease the stress currently placed upon the Farm Loan Program of the Department of Agriculture.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1791-76 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 134-76      Economic Development on S.B. No. 1828-76

The purpose of this bill is to amend Section 171-36, Hawaii Revised Statutes, which, as presently worded, allows the Board of Land and Natural Resources "upon the issuance



of any lease" to modify or eliminate any of the restrictions contained in the section to the extent necessary to qualify the lease for mortgage lending or guaranty purposes with any federal mortgage lending agency qualified to do business in the State of Hawaii. The bill proposes to amend Section 171-36 to enable the Board of Land and Natural Resources to modify or eliminate any of the restrictions in order to qualify a lease for mortgage purposes within two years after the issuance of the lease, rather than merely at the time the lease is issued. Another proposed change would add state or private mortgage lending agencies qualified to do business in Hawaii to the list of federal agencies for whom waivers or modifications of restrictions can be made in order to qualify a lease for mortgage lending or guaranty purposes. The final amendment would eliminate the reference to macadamia nut orchard leases in subsection (2) which states that macadamia nut orchard leases shall not exceed forty-five years, for purposes of clarity. This is a specific reference to an intensive agricultural use and is covered in Section 171-36(1), as amended by Session Laws of Hawaii 1973, in which "macadamia nut orchard" was changed to "tree crop orchard".

In examining the bill, your Committee has amended subsection (a) to add all other federal, state and private mortgage lending agencies qualified to do business in the State of Hawaii to the list of federal agencies from whom waivers or modifications of restrictions can be made in order to qualify a lease for mortgage lending or guaranty purposes.

Your Committee has also amended subsection (6) by not requiring Board approvals in certain limited situations.

After a thorough discussion your Committee has amended the bill to allow the Board of Land and Natural Resources to modify or eliminate any of the restrictions in order to qualify a lease for mortgage purposes after a lease is issued. Your Committee has determined that the two year period does not provide a sufficient period of time in which restrictions may be modified or waived for mortgage lending purposes and, therefore, has amended the bill at line 6, page 4, to provide that the Board of Land and Natural Resources be allowed to modify or eliminate lease restrictions any time during the term of the lease.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1828, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1828, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 135-76 Economic Development on S.B. No. 1829-76

The purpose of this bill is to require that the sale of remnants of public lands does not create lots or uses unacceptable to the counties in which such remnants lie.

Your Committee finds that to a remnant of public land there are often several abutting owners who fulfill the statutory definition as outlined by the Office of the Attorney General. Under the present law, all such abutting owners are provided the opportunity to purchase the remnant by submitting a sealed bid. The highest offer above the appraised value is accepted. There have been circumstances where one of the abutting owners, with only a single point or slight abutment, has been the highest bidder. Such sales have created lots of a conformity which would not have been permitted in a subdivision subject to county standards and approval.

The Proposed amendment to Section 171-52 contained in this bill would assure the counties that State remnants will not be sold in such a manner as to create undesirable parcels when consolidated or combined with the abutting parcels.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1829-76 and recommends that it pass Second Reading and be referred to your Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 136-76 Economic Development on S.B. No. 1834-76

The purpose of this Bill is to enact certain changes in the Fishing Vessel Loan Program for purposes of clarification.

One proposed change provides size qualifications to distinguish between "large" and "small" fishing vessels for purposes of clarifying the existing statute: large fishing

vessels are defined as any vessel five net tons or over, and small fishing vessels are defined as any vessel under five net tons. The Bill proposes to further clarify the statute by incorporating the terms "large" and "small" into the program titles and purposes. A third change seeks to provide small fishing vessel owners with the identical financial assistance provided to large fishing vessel owners by expanding the Hawaii Commercial Fishing Vessel Maintenance and Repair Loan Program to include purchase, construction and renovation as qualifying for financial assistance. The fourth proposed change would correct an apparent oversight by empowering the Department of Planning and Economic Development to adopt rules and regulations pursuant to the administration of the Fishing Vessel Loan Program. Moreover, a final change seeks to eliminate possible confusion regarding the annual report requirement by providing that the report shall be due by February 1 for the prior year's operation.

Your Committee finds that additional changes are needed in certain portions of the Bill to clarify the statutory authority granted to the Department of Planning and Economic Development. Therefore, the language has been changed in two sections to provide that the Director of the Department of Planning and Economic Development shall (rather than may) be empowered to promulgate rules and regulations pursuant to the administration of the fishing vessel loan programs.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1834-76 as amended herein, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means in the form attached hereto as S.B. No. 1834-76, S.D. 1, for further consideration.

Signed by all members of the Committee.

SCRep. 137-76 Economic Development on S.B. No. 2103-76

The purpose of this bill is to appropriate \$150,000 for maintenance and expansion of the Waikiki Aquarium facility. These funds will be expended by the University of Hawaii for the purposes of this bill.

Your Committee finds that there is presently a critical need for funds to improve the educational exhibits and displays in the areas of the Aquarium visited by more than 230,000 persons annually. With improved facilities, the Aquarium will be able to attract a greater number of residents and visitors and will provide a more meaningful and attractive educational experience concerning Hawaii's marine environment.

Your Committee finds, however, that the \$150,000 figure is insufficient to cover the actual required CIP funds. Therefore, your Committee has amended the bill to provide \$169,000 for the purposes of capital improvements to the Waikiki Aquarium facility.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. NO. 2103-76, as amended herein and recommends that it pass Second Reading and be referred to the Committee on Ways and Means in the form attached hereto as S.B. No. 2103-76, S.D. 1.

Signed by all members of the Committee.

SCRep. 138-76 Economic Development on S.B. No. 2115-76

The purpose of this bill is to appropriate \$40,000 for a grant-in-aid to the City and County of Honolulu Board of Water Supply to conduct a hydrologic-geologic evaluation of any additional water sources in the Waianae area that may be developed.

Your Committee finds that developed water resources in the Ewa-Waianae Water Use District are presently insufficient to meet current requirements, much less provide for anticipated water demand in this area. Therefore, in order to meet the current requirements, more than eighty percent of the domestic water must be transported seventeen miles from the Pearl Harbor region.

Your Committee further finds that this hydrologic-geologic study is necessary to determine the extent of additional water supplies that may be developed in Waianae to meet current and future water needs. Local sources in Waianae must be developed to the fullest to minimize the amount of water that must be transported from Kunia-Hoaeae and also to insure the reliability of the water system in the area.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. 2115-76 and recommends that it pass Second Reading and be referred to your

Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 139-76 Economic Development on S.B. No. 2118-76

The purpose of this bill is to appropriate \$2,186,000 for a grant-in-aid to the City and County of Honolulu Board of Water Supply for installation of an eight-inch water main and appurtenances in the Makaha area bounded by Kaulawaha and Water Streets.

Your Committee finds that the new water main and appurtenances will provide improved water service to residents in the area. Moreover, your Committee finds that the new mains will provide fire protection.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2118-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 140-76 Economic Development on S.B. No. 2154-76

The purpose of this bill is to appropriate \$100,000 for research and development of alternate uses of lava rock including the economic feasibility of such uses.

After examining the past and present uses of lava and other volcanic materials throughout the world, your Committee believes that research into the potential uses of lava rock, ash and pumice is a worthwhile undertaking which could prove valuable to the State. Hawaii, with its vast natural storehouse of such volcanic materials, may be underutilizing an abundant natural resource.

In considering the need for a study of possible uses of lava materials, your Committee is cognizant of an earlier study which was undertaken by the Hawaii Institute of Geophysics in 1957. The Committee feels that any new study should be planned as an update of this earlier report, concentrating on the economic feasibility of various potential uses.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2154-76 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 141-76 Economic Development on S.B. No. 2172-76

The purpose of this bill is to appropriate \$610,000 for land acquisition, planning and construction of a workshop for the handicapped at Nanakuli, Oahu. This amount will supplement previously appropriated sums of \$10,000 in Act 68 of 1971, \$104,000 in Act 195 of 1975, to make the total appropriation \$724,000.

Your Committee finds that Lanakila Crafts, Inc., presently operates a workshop in Nanakuli, which is temporarily housed in an old wooden facility. The proposed project, with 9200 square feet of space, will accommodate approximately seventy disabled persons annually. The program to be conducted in the facility will include work evaluation, work training, and sheltered employment.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2172-76 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 142-76 Economic Development on S.B. No. 2269-76

The intent of this bill is to provide a means for the control of Hamakua Pamakani, a designated noxious weed, which is causing production losses in pasture lands on the island of Hawaii. The bill proposes to appropriate \$75,504 for the purchase of herbicides for Hamakua Pamakani control.

After a thorough examination of the situation, your Committee finds that on the island

of Hawaii, Hamakua Pamakani has spread over 130,000 acres of land of which approximately 52,000 acres are usable pasture land. The State Department of Agriculture is currently engaged in a biological control of this weed; however, the control measures have not been entirely successful in controlling the spread of this pest, and interim chemical treatments are desirable.

In reviewing the bill, your Committee has amended the bill to delete a reference to obligation bonds. This appropriation is to be made from the general revenues or general funds of the State of Hawaii.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2269-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2269-76, S.D. 1, and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 143-76 Economic Development on S.B. No. 2270-76

The purpose of this Bill is to appropriate \$385,000 for the installation of water mains in the Manoa area.

After examining the facts in a public hearing, your Committee finds that, during the past few years, there have been several main breaks in this area, causing inconvenience and damages to neighboring residents. Moreover, the new mains will improve water pressure and fire protection conditions in the affected areas.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2270-76 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 144-76 Economic Development on S.B. No. 2292-76

The purpose of this bill is to appropriate \$3,250,000 for land acquisition and construction of reinforced concrete channels for Kalauao Stream Flood Control Project. This appropriation supplements Item K3, Act 197, Session Laws of Hawaii, 1971.

Your Committee finds that the project will involve the construction of approximately 3,000 feet of channel improvements extending from Pearl Harbor to Hale Momi Place. The project will also include the reconstruction of the Navy utility bridge and Kihale Street Culvert. The construction of the project will alleviate the erosion problem and reduce the flood treat to the area by providing protection against overflow and flooding.

In examining the facts, your Committee has amended the bill to provide \$6,600,000 rather than \$3,250,000 for the project. The amended amount will cover the total estimated cost of the land acquisition and construction of the Kalauao Stream Flood Control Project. Under the City's six-year Capital Improvement Program, the subject project is tentatively scheduled to be initiated in the year 1980; however, the appropriation by the State of the total amount now will help to accelerate the commencement date and thereby provide the needed improvements earlier. Presently, the City's consultant is designing and preparing the project construction plans.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2292-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2292-76, S.D. 1 and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 145-76 Economic Development on S.B. No. 2293-76

The purpose of this bill is to appropriate \$600,000 to establish a banana processing plant on Oahu.

Your Committee finds that the present fragmentation of the Hawaii banana industry, correctable by the establishment of the processing plant, has resulted in a fairly erratic supply of bananas as well as an inconsistent quality of bananas in the local market. Consequently, imported Central American bananas now account for nearly 40 percent

of all bananas consumed in the State. Agreeing with the testimonies offered by the Department of Agriculture, the College of Tropical Agriculture, the Oahu Banana Growers Association, and the Hawaii Farm Bureau Federation, your Committee believes that the establishing of such a centralized processing plant will stimulate the industry by improving conditions for the consumer, the producer, and the economy of the State as a whole. Furthermore, the processing plant will contribute materially to the long range expansion of this State's diversified agricultural industry, an expressed objective of both the State Administration and the Legislature.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2293-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 146-76 Economic Development on S.B. Nos. 2364-76 and 2385-76

The purpose of these bills is to appropriate \$235,000 for demolishing the existing hollow tile structure and deepening the Research Monitor Well No. 2300-18 in Waipahu and to appropriate \$41,000 for the removal and replacement of plastic casing and the redevelopment of the Punanani research monitor well in Aiea.

Your Committee finds that such improvements and renovations will provide deep research monitor wells for collecting data necessary for the improved management of the ground water resources of the Pearl Harbor Basin.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2364-76 and S.B. No. 2385-76 and recommends that they pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 147-76 Economic Development on S.B. No. 2382-76

The purpose of this bill is to appropriate \$75,000 for a study to determine the feasibility of collecting the upper waters of the West Loch of Pearl Harbor, Oahu into a reservoir.

Your Committee, in public hearing, has found that such impounded waters could be used for irrigation, thus reducing the demand on the supplies of high quality potable water now being used for irrigation purposes.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2382-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 148-76 Economic Development on S.B. No. 2391-76

The purpose of this bill is to appropriate \$35,000 for the engineering and laying of a 2-1/2 inch waterline from Sand Island to Mokauea Island.

Your Committee finds that a fresh water line from Sand Island to Mokauea Island is necessary for the preservation of the health, security, and convenience of the users of the Mokauea fishery and for the beautification and maintenance of foliage on the island. The construction of this pipeline is in keeping with the State Department of Transportation and the Mokauea Fishermen's Association efforts to stabilize the physical environment in order to preserve the Mokauea fishery and fishing community and their heritage and educational benefits to the community.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2391-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 149-76 Economic Development on S.B. No. 2687-76

The purpose of this bill is to appropriate \$10,000 for the construction of hunter access roads, game water units, game range improvements, enclosures, hunter facilities,

signs, and markers, at the Hawaii Game Management Facilities, Hawaii.

After discussing the facts in public hearing, your Committee finds that recreational hunting is a major facet of modern life in Hawaii and, therefore, that sums appropriated for improvements to the Hawaii Game Management Facilities, Hawaii, are worthwhile.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2687-76 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 150-76 Economic Development on S.B. No. 2803-76

The intent of this bill is to provide the director of planning and economic development with staff assistance in the analysis of business and commercial investment proposals associated with Statewide or regional economic development programs and projects. Moreover, the director is provided with the flexibility of hiring a qualified financial analyst without regard to civil service and compensation laws.

After a thorough discussion, your Committee finds that the State encounters difficulty in attracting and retaining persons experienced in financial and business analysis. This is due to the lower rate of compensation provided by the salary schedule for civil service positions than that enjoyed by skilled financial analysts in the private sector.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2803-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 151-76 Economic Development on S.B. No. 1824-76

The purpose of this Bill is to require that all purchasers and/or lessees of State land shall pay or reimburse the State for all appraisal costs where independent appraisals are required by law or dictated by prudent management.

Under the present wording of Section 171-17, the State has been absorbing the cost of appraisals for reopenings of lease rentals, repurchases of lots, and for certain sales at public auction where prudent management dictates determination of the lease rental or sale price by independent appraisal. The proposed amendments to Section 171-17 will mandate the Board of Land and Natural Resources to have such appraisals determined by an independent appraiser and will require the lessee or purchaser to pay or reimburse the State for such appraisal costs.

Your Committee finds that the original provisions in Section 171-17 involving reopenings are more equitable and more in line with current practices in the private sector than the proposed changes in the Bill. Therefore, your Committee has amended the Bill to provide that the cost of the first appraisal in lease reopenings will be paid by the State, not the lessee.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1824-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1824-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 152-76 Economic Development on S.B. No. 1825-76

The purpose of this bill is to provide that the Special Land and Development Fund may be used to pay all appraisal costs incurred by the Department of Land and Natural Resources in the management of state lands. The bill further proposes to extend the lands covered from "public lands" to "state lands under the control and management of DLNR" and to increase the permitted annual expenditure for maintenance of state lands from \$25,000 to \$100,000.

After a thorough examination of the facts, your Committee has ascertained that funds in the Special Land and Development Fund are acquired through the sale of public lands as well as the interest earned on such sales. Presently, there is approximately \$6 million

in the Special Fund. This amount fluctuates with the payment of interest on General Obligation Bonds and, occasionally, with the cost of repurchasing public lands. Moreover, the cost of maintenance and related services for public lands, which is currently limited to \$25,000, is also paid by the Special Fund. The Board of Land and Natural Resources cannot use funds from the Special Fund for any other purpose without the specific authorization from the Legislature.

Under the present wording, the Department of Land and Natural Resources incurs numerous appraisal costs for which no reimbursement is received and for which reimbursement is not required by law. Appraisal costs pertinent to unsold lots in a subdivision would be one example of such nonreimbursable costs.

The Board of Land and Natural Resources is responsible for several categories of state lands, including Conservation lands, Forest Reserves, State Parks lands, lands set aside by executive order of the Governor, and Hawaiian Home Lands, in addition to the public lands as defined in Section 171-2.

Therefore, it is desirable that use of the Special Fund for incidental maintenance be extended to all state lands for which the Board is responsible. The bill would provide for an annual authorization of \$100,000 instead of the current \$25,000, as increased costs of all types of services have made the present figure obsolete.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. 1825-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator King.

SCRep. 153-76 Government Operations and Efficiency on S.B. No. 2052-76

The purpose of this bill is to require each state department to submit an annual department report to the Legislature at least 20 days prior to the convening of each regular session. All separate annual reports required to be filed with the Legislature and/or governor by or under the department are to be filed with the department and consolidated in said department report.

Your Committee on Government Operations and Efficiency is in accord with the intent and purpose of S.B. No. 2052-76, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 154-76 Government Operations and Efficiency on S.B. No. 2490-76

The purpose of this bill, as amended herein, is to make Hawaii's Lobbyists law more specific in its requirements and more workable. An additional requirement is to be imposed as to any person who directly or indirectly employs, designates as his agent or representative, or otherwise retains another person who lobbies. Such persons are to furnish information about total expenditures for lobbying, as well as the breakdown on amounts paid to, and expense accounts for, lobbyists. Moreover, the legislative and administrative actions supported or opposed, rather than just the subject area thereof, must also be reported. To insure compliance with the law, the penalty provisions have been strengthened.

Your Committee on Government Operations and Efficiency is in accord with the intent and purpose of S.B. No. 2490-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2490-76, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 155-76 Military and Civil Defense on S.B. No. 2028-76

The purpose of the bill is to limit the taking of military leave from work with pay for a period of 15 days to officers and employees of the State and the several counties who have been appointed for at least 6 months of service. Under the existing law any officer and employee of the State and the several counties may take the military leave irrespective of the nature of his appointment.

Major General Valentine A. Siefertmann, Adjutant General, State of Hawaii, testified

in favor of the bill. He stated that the bill will prevent officers and employees of the State and the several counties who have been hired or appointed for a short period of time or on a temporary basis from taking the military leave.

Your Committee on Military and Civil Defense is in accord with the intent and purpose of S.B. No. 2028-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 156-76 Military and Civil Defense on S.B. No. 2657-76

The purpose of the bill is to appropriate out of the general revenues of the State of Hawaii \$330,000, of which \$198,000 shall be financed by Federal funds, or so much thereof as may be necessary, for the planning and construction for the Hawaii Army National Guard of an armory, utilities, access road, parking areas, security fencing and other supporting features at Pahala, Hawaii.

Major General Valentine A. Siefertmann, Adjutant General, State of Hawaii, was in favor of the bill. He stated that the existing armory for the Hawaii Army National Guard at Pahala consists of two quonset buildings and is obsolete, inadequate and substandard and does not contribute to the effective development and training of personnel. There is no classroom space, assembly hall or locker room in the armory, all of which are required as part of the National Guard Bureau Armory criteria. It is planned to demolish the existing armory and construct a new armory authorized by the National Guard Bureau. The costs are estimated at \$198,000 Federal funds and \$132,000 State funds.

Your Committee on Military and Civil Defense is in accord with the intent and purpose of S.B. No. 2657-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 157-76 Education on S.B. No. 2312-76

The purpose of this bill is to provide a grant-in-aid to the Hilo Association to Help Retarded Citizens.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2312-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 158-76 Education on S.B. No. 2342-76

The purpose of this bill is to allow the department of education more time to plan and negotiate contracts for certain capital improvement projects.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2342-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 159-76 Education on S.B. No. 2489-76

The purpose of this bill is to establish a state campus security program for all public schools staffed by volunteers recruited from among persons sixty years of age and older. The program is to be administered by the department of education and shall include the recruitment, health and vision examination, equipping, training, transportation, and insuring of volunteer campus security officers.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2489-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 160-76 Consumer Protection on S.B. No. 1784-76

The purpose of this bill is to enable the Office of Consumer Protection to provide



both tenants and landlords with information regarding the Residential Landlord-Tenant Code.

This bill repeals Section 521-76, Hawaii Revised Statutes, which requires the Office of Consumer Protection to provide counsel to indigent tenants.

Prior to the enactment of the Code in 1972, the Office of Consumer Protection voluntarily assisted tenants by investigating and mediating their complaints under the old landlord-tenant laws. When the Code took effect in 1973, it contained no provision requiring any governmental agency to assist landlords or tenants in resolving their disputes, except Section 521-76 which requires that the Office represent indigent tenants who cannot obtain legal aid through non-profit organizations.

After the enactment of the Code, the Office continued its assistance to tenants. Many inquiries, however, from small landlords who sought specific information were not answered because of a ruling by the Disciplinary Board of the Hawaii Supreme Court that a possible conflict situation existed because of Section 521-76.

Additionally, the Board ruled, in a decision rendered on February 20, 1976, that the Office could not receive, investigate, or mediate any complaints from either landlords or tenants.

These services that the Office provided in the past saved the public much in time and expense, as it provided quick and equitable resolution of many situations.

This bill repeals Section 521-76 to enable the Office of Consumer Protection to provide both landlords and tenants with information regarding the Code.

Your Committee also amended the bill to create a new section to specifically authorize the Office to again receive, investigate, and mediate complaints and disputes.

Your Committee believes that this bill, as amended herein, conforms with the original intent and purpose of Chapter 521, Hawaii Revised Statutes, which was to establish a balance of rights and responsibilities between Hawaii's landlords and tenants.

Your Committee on Consumer Protection is in accord with the intent and purpose of S.B. No. 1784-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1784-76, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 161-76 Consumer Protection on S.B. No. 2986-76

The purpose of this bill is to amend certain sections of Chapter 294, Hawaii Revised Statutes, to reduce the administrative costs of providing no-fault automobile accident insurance coverage to persons receiving public assistance.

The Motor Vehicle Insurance Commissioner stated in his annual report to the Legislature that, for the period of September 1, 1974 to June 30, 1975, the initial eight months of operation of no-fault, the costs of providing coverage for welfare vehicles totaled \$1,442,485, costs absorbed in the rates paid by all other drivers.

This bill is intended to reduce some of the unnecessary administrative costs of this program in order to pass these savings on to the consumer.

Under the provisions of this bill, qualified public assistance recipients would be granted no-fault automobile insurance benefits and coverages by providing them and those claiming against them, access to the Assigned Claims Plan without requiring that a policy be issued to every public assistance recipient insured. The intent of this proposal is to reduce expenses generated by commissions and other allowances.

Your Committee amended the bill to clarify the definition of a person affected by the provisions of the proposed amendments. Also, the section proposing a tax credit to insurance companies for costs incurred with respect to claims by recipients against the Assigned Claims Plan, was deleted. Technical amendments were made to clarify the intent of the bill.

Your Committee on Consumer Protection is in accord with the intent and purpose of S.B. No. 2986-76 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2986-76, S.D. 1, and be referred to the Committee

on Judiciary.

Signed by all members of the Committee.

SCRep. 162-76 Intergovernmental Relations on S.B. No. 1475

The purpose of this bill is to permit the counties to gradually phase out non-conforming uses to the zoning codes by amortization.

Your Committee finds that it is also necessary that Section 205-8, be amended to accomplish the purpose of this bill. S.B. No. 1480, which has been referred to the Committee on Ecology, Environment and Recreation, would take care of this.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 1475, and recommends that it pass Second Reading and be referred to the Committee on Economic Development.

Signed by all members of the Committee.

SCRep. 163-76 (Majority) Intergovernmental Relations on S.B. No. 2399-76

The purpose of this bill is to make the State totally responsible for all regulations concerning the registration, licensing, carrying, possession, sale, manufacture, ownership, transportation, transfer, importation and use of all firearms and ammunition in the State.

This bill adds a new section to the Hawaii Revised Statutes, providing that no City and County or County agency shall enact any rule, regulation or ordinance dealing with firearms. It further provides that any rules, regulation or ordinance previously enacted by these counties shall be void.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2399-76, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee. Senators Kawasaki and George did not concur.

SCRep. 164-76 Intergovernmental Relations on S.B. No. 2572-76

The purpose of this bill is to permit the counties to tap a new resource of financing for short-term investments. This bill amends Section 46-50, Hawaii Revised Statutes, as stated in the title of the bill. It also updates the language to conform to current situations.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2572-76, and recommends that it pass Second Reading, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 165-76 Intergovernmental Relations on S.B. No. 2727-76

The purpose of this bill is to enable the council of any county to appoint their own employees, and to fix the salaries of their staff. This bill provides that the said appointed employees shall be exempt from civil service and the position classification plan.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2727-76, and recommends that it pass Second Reading, and be referred to the Committee on Human Resources.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 166-76 Higher Education on S.B. No. 1882-76

The purpose of this bill is to appropriate monies out of the general revenues of the State of Hawaii for the purchase of video tape and other appropriate equipment for the use of community and public services organizations in the public access channels of all C.A.T.V. franchise systems.

The Committee has amended the bill to make the Department of Regulatory Agencies the expending agency because the various C.A.T.V. franchise systems are under the

jurisdiction of that department.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1882-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1882-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 167-76 Higher Education on S.B. No. 2119-76

The purpose of this bill is to appropriate monies out of the general revenues of the State of Hawaii for the purchase and installation of an acoustic shell in the Leeward Community College Theatre.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2119-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 168-76 Higher Education on S.B. No. 2210-76

The purpose of this bill is to appropriate monies out of the general revenues of the State of Hawaii to provide for banana research and development.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2210-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 169-76 Higher Education on S.B. No. 2313-76

The purpose of this bill is to enable the University of Hawaii to provide for the specialized education and training of workers and leaders of the trade unions to improve their professional competence.

Testimony submitted by Mr. A. Van Horn Diamond, Executive Secretary-Treasurer, Hawaii Federation of Labor, AFL-CIO, endorsed and support by Mr. David Thompson of the ILWU Local 142, states that the current center for Labor Management Education, created by administrative action of the University, has been ineffective and inefficient due to a lack of administrative interest and support. The statutory creation of the Center of Labor Education and Research (CLEAR) is essential to insuring future viability in labor education.

Your Committee on Higher Education has amended the bill as follows:

1. Section 3 has been amended for the purpose of focusing on a time period where a long range plan is to be developed.
2. Section 4 has been amended as to make clear that the Dean of the College of Continuing Education and Community Services is the administrative policy officer.
3. Section 5 has been amended so that the classification of administrative positions are covered by the Board of Regents classification system.
4. Section 5 has also been amended to provide for seven permanent positions (5 professional, 2 clerical).
5. Section 6 has been amended so that it will be in consonance with section 4 and so that funds will be for the sole purpose of this program.
6. Section 7 has been deleted.
7. Section 8 has been renumbered as Section 3 and amended so that \$250,000 be provided for the program.
8. Section 9 has been renumbered as Section 4.

Your Committee is in accord with the intent and purpose of S.B. No. 2313-76, as amended herein, and recommends that it pass Section Reading in the form attached hereto as S.B. No. 2313-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 170-76 Higher Education on S.B. No. 2469-76

The purpose of this Bill is to provide funds for the construction of interim Law School facilities at the University of Hawaii, Manoa Campus, in March 1976 so that the construction can immediately commence for the facilities to be ready for occupancy by September 1976 to maintain accreditation by the American Bar Association.

Because the ABA mandated that the required facilities be provided by September 1976 for the Law School to continue to receive accreditation, the plans for the additional facilities have been started with prior appropriations; however, construction funds are immediately needed if construction is to be completed by September.

Through the usual CIP process, funds will not become available for construction until July 1, 1976. Therefore, the Governor is seeking funding through a special appropriation measure, as permitted by Article VI, Section 5, of the Constitution of the State of Hawaii.

The Law School will also be displacing certain other programs in adjoining temporary facilities and funds are required to relocate and renovate other portable buildings to be used by these programs. This bill has been amended to include this change.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2469-76 as amended herein and recommends its passage on Second Reading in the form attached hereto as S.B. No. 2469-76, S.D. 1 and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 171-76 Higher Education on S.B. No. 2532-76

The purpose of this bill is to appropriate monies out of the general revenues of the State of Hawaii for the operations of the Continuing Education for Women (CEW) Program at the University of Hawaii-Manoa.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2532-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Saiki.

SCRep. 172-76 Higher Education on S.B. No. 2678-76

The purpose of this bill is to appropriate monies out of the general revenues of the State of Hawaii for the design and construction of Mauna Kea Observatory, mid-level facilities, Phase 2, University of Hawaii, Institute for Astronomy, including the construction of housing, office and lab facilities on the slopes of Mauna Kea to accommodate observatory personnel.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2678-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator King.

SCRep. 173-76 Higher Education on S.B. No. 2700-76

The purpose of this bill is to appropriate monies out of the general revenues of the State of Hawaii to provide for a basic level of support, to enable the Environmental Center to continue the environmental research functions developed by the Hawaii Environmental Simulation Laboratory (HESL).

Projects completed by the HESL include:

- (a) an environmental impact study of alternative development policies for the Kaneohe

Bay region, (b) various analyses of the State's carrying capacity, (c) development of a sedimentation severity rating formula which provided the basis for Department of Health regulations on sedimentation standards and county grading ordinances, (d) contribution to the development of county ordinances for interim shoreline protection and of information systems to be used in the State Coastal Zone Management program, (e) a model for estimating the effects of land-use change on peak flood discharges and flood hazards, (f) a communication between government agencies and community groups in various controversial issues such as the Kahaluu flood control project, proposed Heeia development and proposed land use changes in the Waiahole-Waikane vicinity, and (g) responses to some 400 requests relating to environmental concerns from State agencies, county agencies and community groups.

Your Committee supports this unique use of our community's resources in attempting to find out, in advance, the reaction of the environment to man's activities.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2700-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 174-76 Higher Education on S.B. No. 2731-76

The purpose of this bill is to allow the University of Hawaii at Hilo more time to plan and negotiate contracts for certain capital improvement projects.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2731-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 175-76 Higher Education on S.B. No. 2779-76

The purpose of this bill is to appropriate monies out of the general revenues of the State of Hawaii for the purpose of hiring and supporting the scientific work of a research scholar in greenhouse vegetable plant physiology and related areas in the Department of Horticulture, College of Tropical Agriculture, the University of Hawaii.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2779-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 176-76 Higher Education on S.B. No. 2781-76

The purpose of this bill, is to appropriate monies out of the general revenues of the State of Hawaii for the funding of a full-time vegetable research scientist position at the Kula Branch Station.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2781-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 177-76 Higher Education on S.B. No. 2791-76

The purpose of this bill is to appropriate monies out of the general revenues of the State of Hawaii for research by the University of Hawaii, College of Tropical Agriculture to improve present fumigation methods to eliminate fruit flies in avocados.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2791-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 178-76 Higher Education on S.B. No. 2964-76

The purpose of this bill is to appropriate monies out of the general revenues of the State of Hawaii for plans and construction of dormitory facilities at Maui Community College.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2964-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 179-76 Transportation on S.B. No. 1857-76

The purpose of this bill is to allow all present and future employees of the Statewide Transportation Council to be classified as regular employees of the Department of Transportation subject to civil service rules and regulations, and benefits and privileges thereof.

The testimony of E. Alvey Wright, Director of Transportation, indicated that the staff of the Statewide Transportation Council should enjoy full civil service status as state employees.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1857-76, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 180-76 Transportation on S.B. No. 1877-76

The purpose of this bill is to provide that an exemption from the county vehicular weight tax and from the penalties and remedies due upon nonpayment of the tax may be obtained by a person presenting a proper certificate that the vehicle was stored in the past year for which the exemption is claimed. The purpose of this bill is also to provide that it shall be a misdemeanor to knowingly present a false certificate in an attempt to avoid payment of the tax or penalties. Under the current statute a certificate of storage must be presented either before the tax is due in order to obtain a tax exemption for the rest of the year or after the tax has been paid in order to receive a refund.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1877-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 181-76 Transportation on S.B. No. 2160-76

The purpose of this bill is to appropriate the sum of \$750,000, or so much thereof as may be necessary for preliminary engineering, right-of-way and construction costs to construct sidewalks, bikeways and to provide lighting for Kamehameha Highway between the Pali Road and LikeLike Highway, mauka lanes, Kaneohe, Oahu.

The Department of Transportation supports this bill. The funds are sufficient to perform the work indicated.

The Hawaii Bicycling League also supports this bill. They noted that all appropriations for bikeways should be coordinated with the recommendations contained in the Interim State Bikeway Master Plan which will soon be released by the Department of Transportation.

Your Committee on Transportation is in accord with the intent and purpose of S.B. 2160-76, and recommends it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 182-76 Transportation on S.B. No. 2303-76

The purpose of this bill is to appropriate the sum of \$100,000, or so much thereof as may be necessary, for the restoration of Honuapo Wharf and for plans, construction

and appurtenances of recreational facilities of the Wharf's surrounding area.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2303-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 183-76 Transportation on S.B. No. 2371-76

The purpose of this bill is to appropriate the sum of \$55,000, or so much thereof as may be necessary for planning and installation of high intensity street-lighting facilities in Waialua from the termination of the previously completed project (Hwy-0-02-73) on Kauhunakoa road to Thompson's Corner and thence along Farrington Highway to the vicinity of Goodale Avenue.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2371-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 184-76 Transportation on S.B. No. 2095-76

The purpose of this bill is to provide all civil service benefits to all employees of the Oahu Metropolitan Planning Organization.

Your Committee on Transportation adopted the recommendations of the department of Transportation by deleting from Section 1, "except part II of chapter 88" which is an apparent contradiction to section 2 where the phrase "and part II of chapter 88" is bracketed and, is therefore statutory material to be repealed. Also deleted is Section 2 paragraph three, "Any provision of law to the contrary notwithstanding all officers and employee of the existing Oahu Transportation Planning Program are hereby transferred to the MPO for Oahu with their respective functions and duties in accordance with this chapter.", because it is already covered in the Comprehensive Agreement of December 3, 1975 by and between the State, the City and County of Honolulu and the Oahu Metropolitan Planning Organization.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2095-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2095-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 185-76 Transportation on S.B. No. 2429-76

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$235,000 or so much thereof as may be necessary for the widening of Moanalua Road from Kalauao Stream to Aiea interchange in Aiea, Oahu.

Your Committee on Transportation adopted the recommendation of the Department of Transportation by amending Section 3 so that the expending agency is the City and County instead of the Department of Transportation and amending Section 2 so that "items IV-C-6-2" is "items IV-C-6-1".

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2429-76, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2429-76, S.D. 1 and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 186-76 Transportation on S.B. No. 2433-76

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$35,000 or so much thereof as may be necessary, for the plans and construction of a small boat ramp at Ukumehame, County of Maui.

Your Committee on Transportation adopted the recommendation of the Department

of Transportation by amending Section 1 to read "small boat ramp at Ukumehame or Olowalu".

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2433-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2433-76, S.D. 1 and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 187-76      Transportation on S.B. No. 2435-76

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$25,000 or so much thereof as may be necessary, for the planning and construction of asphalt paved walkways on Nuuanu Avenue, Wyllie Street overpass and egress at Pali Highways in Honolulu, Oahu.

Your Committee on Transportation adopted the recommendations of the Department of Transportation by amending Section 1 of this bill by adding "Nuuanu Avenue," and deleting "the" before the word "Wyllie". This change would allow the Department of Transportation the flexibility to extend the walkway to Nuuanu Avenue and the Pali Highway if necessary.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2435-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2435-76, S.D. 1 and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 188-76      Transportation on S.B. No. 2673-76

The purpose of this bill is to appropriate funds for the design and construction of a two-lane highway from Holualoa to Papa on the island of Hawaii.

The Department of Transportation supports the bill. The project is included in its capital improvements program.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2673-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 189-76      Transportation on S.B. No. 2679-76

The purpose of this bill is to appropriate funds for the design and construction of a highway from Mamalahoa Highway in the vicinity of Kamuela Racetrack to Queen Kaahumanu Highway at Hapuna and construct a highway along Route 270 from the junction of Route 270 and 19 to Kawaihae.

The Department of Transportation supports the bill. The project is included in its capital improvements program.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2679-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 190-76      Transportation on S.B. No. 2685-76

The purpose of this bill is to appropriate funds for the incremental development of moorings and shore facilities and other improvements at Honokuhau Boat Harbor. It provides for unencumbered balances in Section 4, Item A37, Act 68, SLH 1971, notwithstanding the lapsing provisions of Act 202, SLH 1972.

The correct spelling of the name of the boat harbor is "Honokohau" rather than Honokuhau."

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2685-76, and recommends that it pass Second Reading and be referred to the Committee



on Ways and Means.

Signed by all members of the Committee.

SCRep. 191-76      Transportation on S.B. No. 2689-76

The purpose of this bill is to appropriate funds for the construction-realignment of a portion of the Hawaii Belt Road including the construction of the Kapehu and Kaalau bridges.

The Department of Transportation supports the bill. The project is included in its capital improvements program.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2689-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 192-76      Transportation on S.B. No. 2693-76

The purpose of this bill is to appropriate \$100,000, or so much thereof as may be necessary, for a supplemental appropriation for the planning, site preparation, and construction of fourteen type B bus shelters for several existing bus stops on Oahu.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2693-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 193-76      Economic Development on S.B. No. 2138-76

The purpose of this bill is to provide a mechanism by which the State can plan for the growth of tourism and work with the visitor industry in coordinating and implementing policies and plans to achieve desired goals and objectives by creating an office of tourism within the department of planning and economic development and by establishing a visitor industry council.

Your Committee notes that the visitor industry is a major component of the economic base of the State and makes a significant contribution to income and employment within our community. Over the past ten years, tourism has replaced defense and agriculture as the State's number one industry. Thus, your Committee feels that we are entering a period when the need for participation in establishing guidelines for orderly future growth is recognized by all levels of government and segments of the industry. Your Committee feels that this bill is aptly addressed to this issue.

Your Committee feels that the growth of the visitor industry must take into consideration not only the needs of the community-at-large, but the ability of the public sector to provide these necessary services. Your Committee strongly believes that there is a special need for the State government to take a more active role to require integration of both public and private sectors of the visitor industry and to set directions and standards to preserve our unique quality of life in Hawaii. Your Committee further feels that the needs and lifestyles of Hawaii's residents should receive due consideration whenever the needs of the visitor industry impinge upon the private sector.

Your Committee is cognizant of the many problems related to the visitor industry which have been dealt with in the past on an "ad hoc" basis. Specifically, your Committee notes the recent overbooking problem in hotels in Waikiki which creates adverse publicity to the industry as well as alienates prospective visitors to Hawaii. Also, your Committee is alarmed at the recent increase in the number of tourists who are victims of crime in Waikiki. This is a problem which needs immediate attention. Furthermore, there is the problem of congestion of tour buses and cars in Waikiki, as well as the lack of overall planning which is manifested in the overburdened sewers and electrical facilities of the area. The areas of foreign ownership and the questions of the training and counseling of visitor industry employees are also subjects which must be explored. Your Committee fervently hopes that this bill will provide the industry and government with a more comprehensive and coordinated basis for direction.

After careful consideration in a public hearing, your Committee has amended the bill

to create an office of tourism within the department of planning and economic development with the provision that the director of planning and economic development shall be the director of tourism as well. Your Committee is cognizant of the various options in this regard and carefully examined the possibility of creating an office of tourism apart from the department of planning and economic development, as well as the possibility of creating a new department or division for the tourism functions. However, in recognizing the upcoming activities of the Government Organization Commission, your Committee feels that establishing an office of tourism within the department of planning and economic development assures the office of the status required to implement the intent of this bill, while retaining the flexibility in administrative structure to incorporate any restructuring recommendations which the Commission might make at a later date. To this end, your Committee notes that the importance and need of the tourism office requires that action be taken now, and further feels that this measure can be regarded as an interim measure pending the completion of the ten-year State tourism plan in addition to the recommendations of the Government Organization Commission.

Your Committee feels that there are several distinct advantages to be gained by creating the office of tourism within the department of planning and economic development because it places long-range policy development for tourism together with the agency which is responsible for overall State planning. Your Committee feels that this is a prudent move, as the director of planning and economic development is cognizant of the many issues and problems concerning the visitor industry in Hawaii. Your Committee further feels that this is in the spirit of the recommendations of both the 1973 Temporary Visitor Industry Council and the 1975 Governor's Tourism Planning Advisory Committee.

Your Committee has further amended the bill to provide for a visitor industry council composed of thirteen rather than fifteen members. As the council serves as an advisory body to the director of tourism, your Committee feels that his presence on the visitor industry council is unnecessary and, therefore, has deleted this provision from the bill. Moreover, your Committee believes that each county should be allowed to select a representative for the council and that such representation should not be limited to the county planning directors. The provision for nine additional members, three from labor, three from the visitor industry, and three from the public, is retained.

Your Committee, in amending the bill, has also deleted sections of the bill pertaining to contractual engagements with the Hawaii Visitors Bureau since a separate agency is not being created. In addition, all of Section -3 has been deleted as the director of planning and economic development is already empowered to fulfill those duties in the existing statutes.

Your Committee is in accord with the intent and purpose of S.B. No. 2138-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2138-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator King.

SCRep. 194-76 Economic Development on S.B. No. 2139-76

The purpose of this bill is to establish an interim tourism policy to furnish guidance for the orderly and planned growth of tourism for the benefit of the State, its residents and its visitors. The policy is to serve during the interim period required for preparation of the ten-year controlled Growth Policy Plan for Tourism called for by S.R. No. 435 in 1975. The interim tourism policy would be replaced by the policies of the State Plan upon its approval by the Legislature.

Your Committee finds that there is urgent need for adoption of the interim tourism policy in order to (1) encourage social and cultural exchange between our residents and visitors; (2) improve the understanding of our Hawaiian heritage; (3) sustain the economic health of the visitor industry; (4) provide for the growth of tourism for the benefit of our residents; and (5) achieve consistency in the innumerable planning and development decisions which will be made by the public and private sectors during development of the ten-year tourism plan and thereafter.

Your Committee believes that the adoption of the interim tourism policy is necessary because the Hawaii visitor industry is a major component of the economic base of the State, replacing agriculture and defense as the leading growth industry. Since the visitor industry makes a highly significant contribution to the income and employment within our community and causes widespread effects on all public and private aspects of life in the State, declining or undesirable growth of the visitor industry could be detrimental to the quality of life and well-being of our residents. In that regard, your

Committee feels that the interim tourism policy will furnish needed guidance to both the visitor industry and community-at-large.

Your Committee notes that visitor destination areas throughout the world are becoming increasingly competitive in planning, developing, administering and marketing their respective areas and attractions. Combined with the fact that the visitor industry reflects the expenditure of discretionary consumer income, which is highly sensitive to general economic conditions, and the mounting realization that substantial amounts of additional capital must be attracted to Hawaii to sustain the growth of the visitor plant, the need for adoption of a State interim policy becomes increasingly important.

Your Committee believes it is important that the emerging policies of the numerous other planning activities mandated by the Legislature should be compatible with this interim tourism policy. These include the State Plan, Transportation Plan, Open Space Plan, Historic Preservation Plan, Coastal Zone Management Program, Carrying Capacity Studies, and others. Therefore, close coordination and cooperation are required at all levels of government in the preparation of those plans, programs and studies.

After careful consideration, your Committee has amended the bill to consolidate existing statutes on matters relating to tourism into a single chapter as recommended by the Department of Planning and Economic Development. Your Committee believes that consolidation in a new Chapter 203 of all matters relating to tourism is desirable because, in that way, the interim tourism policy is followed logically by the implementation and maintenance measures.

Your Committee finds that the adoption of an interim state tourism policy is essential to the provision of coordinated planning and policy determination until such time as the ten-year State General Plan and its policies are developed.

Your Committee feels very strongly that the needs and life-styles of Hawaii's residents should receive primary consideration whenever the needs of the visitor industry impinge upon the local residents' sector. Accordingly, your Committee has emphasized resident preference in the implementation of the interim tourism policy.

Your Committee is in accord with the intent and purpose of S.B. No. 2139-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2139-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator King.

SCRep. 195-76 Economic Development on S.B. No. 2521-76

The purpose of this bill is to equalize Section 171-63, Hawaii Revised Statutes, by extending the same right to request and be granted waiver of restrictions as to use to lessees of public lands as is now granted to purchasers of State lands, and to authorize the board to permit higher uses of leased lands when such uses are compatible with the pertinent county and land use commission zoning regulations. The bill further provides that such waiver is dependent upon the condition that the lessee pays to the State the difference in value of his leasehold with the restriction in effect and its value with that restriction waived or modified.

Your Committee finds that it would be to the benefit of the State for the board to have the same authority to waive use restrictions on leaseholds as it has to waive them for owners of former State land. For instance, a lease restricted to pasture use might prove unprofitable, while the same land might be used profitably in growing anthuriums and operating a youth camp. No right of subdivision would be included in the case of leased land.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2521-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator King.

SCRep. 196-76 Economic Development on S.B. No. 2304-76

The purpose of this bill is to appropriate sums necessary for a feasibility study and planning of a marine research and display project on the Island of Hawaii.

Your Committee is cognizant of the ever increasing importance of Hawaii's marine

environment and, furthermore, believes that timely research and public education will prove invaluable in protecting and preserving our fragile marine environment and oceanic heritage.

In a public hearing, your Committee has determined that the existence of a marine research and demonstration center will benefit the existing Marine Option Program at the University of Hawaii at Hilo as well as other marine-oriented research and demonstration projects on the neighbor islands. Your Committee notes that, as several projects of this kind are in the discussion phase, no appropriation was requested by the University in this fiscal year and the proposed project was not considered in the normal University budget cycle.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2304-76 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senator King.

SCRep. 197-76 Economic Development on S.B. No. 2493-76

The purpose of this bill is to provide additional means of public access by requiring the provision of public access, not only in conjunction with subdivision actions, but with building permit actions as well. An additional intent of this bill is to exempt the requirement dedication of access when improvements on small lots are involved.

After a thorough discussion, your Committee has ascertained that measures should be taken prior to the irreversible commitment of the subject property in order to make the concept of shoreline access a meaningful one.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2493-76 and recommends that it pass Second Reading and be referred to your Committee on Judiciary.

Signed by all members of the Committee except Senator King.

SCRep. 198-76 Economic Development on S.B. Nos. 2578-76, 2593-76, 2672-76 and 2675-76

The purpose of these bills is to appropriate the sums necessary for water sources investigation, water systems improvements, and the replacement of bridges for the Waimea Irrigation System. S.B. No. 2578-76 appropriates \$300,000 for engineering and economic studies, geologic and hydrologic investigations, explorations and development for the conservation and utilization of surface and ground water sources on the Island of Hawaii. S.B. No. 2593-76 appropriates \$2,300,000 and S.B. No. 2672-76 appropriates \$775,000 for the incremental development of the Kona and Kau water systems, respectively. S.B. No. 2675-76 appropriates \$125,000 for plans and construction for the Waimea Irrigation System.

After a public hearing, your Committee has determined that, due to the rapid growth on the Island of Hawaii, the limited water sources on the island are being subjected to severe competitive uses among urban, industrial, resort and agricultural needs. This growth has necessitated the development of additional water sources and the construction of transmission mains and storage facilities.

Moreover, as the Upper Hamakua Ditch is the principal source of irrigation water for the Waimea Irrigation System which supplies irrigation water to agricultural lands in the area, the replacement of the access bridges is necessary for the operation.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. Nos. 2578-76, 2593-76, 2672-76, and 2675-76, and recommends that they pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senator King.

SCRep. 199-76 Economic Development on S.B. No. 2591-76

The purpose of this bill is to appropriate \$10,000 for the importation of gamebirds to the Island of Hawaii.

In a public hearing, your Committee has ascertained that the importation of gamebirds

is a worthwhile project in light of the rising popularity of recreational hunting in Hawaii. Funds previously appropriated for this purpose have not been allotted due to the restricted availability of gamebirds on the mainland. The requested funds will permit the expansion of the program.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2591-76 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senator King.

SCRep. 200-76      Economic Development on S.B. No. 2706-76

The purpose of this bill is to encourage the formation and successful operation within the State of Hawaii of Small Business Investment Companies as defined by the federal Small Business Investment Act of 1958, as amended.

In a public hearing, your Committee has ascertained that the Small Business Investment Companies (SBICs) are government-backed, flexible financing devices for furnishing equity capital and long-term loan funds to small businesses to operate, grow, and modernize. These companies are formed to operate under the regulations of the federal Small Business Investment Act once they have obtained an SBIC license. When SBICs were developed they were visualized as potential sources of capital and expertise for small firms previously limited to short term financing. Since that time, they have proved to be adaptable to inner city as well as rural economic development by funneling much-needed investment capital into economically depressed communities, and to socially or economically disadvantaged small business entrepreneurs.

Your Committee further finds that despite the success of the SBIC industry, Hawaii has been slow to benefit. By the end of 1975, only two SBICs had been licensed to operate in Hawaii, and one of these was licensed in 1975. To this end, the SBA has developed an index to measure the amount of SBIC financing within each state relative to employment and financial factors in that area. Using 100 to indicate a proportionate level of SBIC financing, the SBA rates Hawaii at 16.48 --- in other words, Hawaii small businesses received only one-sixth of their proportionate share of SBIC financing during 1975. Only six other states had a lower rating.

Moreover, your Committee is cognizant of the impact of SBICs on the country's economy as can be seen from the results of a recent SBA survey. Approximately 7,500 new jobs were made available because of SBIC financing during 1975, and an additional 18,600 jobs are expected to be generated from this same financing during the next several years. S.B. No. 2706-76 can make it possible for our state economy to participate in these SBIC benefits. It is the intent of this Committee that this bill will benefit the economy of the State by furthering the growth of small businesses and thereby providing increased employment opportunities for all the people of the State.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2706-76 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senator King.

SCRep. 201-76      Economic Development on S.B. Nos. 2905-76, 2533-76, 2503-76  
and 2988-76

The purpose of these bills is to appropriate sums necessary for capital improvement projects regarding water and waste disposal systems and storm drainage systems in the areas of Kahuku, Oahu, Waiehu, Maui, Palolo, Oahu, and Puna, Hawaii.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. Nos. 2905-76, 2533-76, 2503-76 and 2988-76 and recommends that they pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senator King.

SCRep. 202-76      Health on S.B. No. 794

The purpose of this bill is to strengthen noise control programs which affect public health.

Testimony was presented to your Committee which pointed out that existing departmental regulations may not control the problem of protecting persons from excessive noise who are in structures located on public property. An example would be construction actively occurring at the University of Hawaii, Manoa Campus, which jeopardizes classroom studies. The Community Noise Control For Oahu's rules and regulations are, necessarily, property line oriented to allow objective measurements of noise emanating from an existing property and protect persons outside that property.

Your Committee has amended this bill to clarify the fact that the department of health's regulations to control excessive noise should apply to protect persons in structures on public property. The means by which this amended bill accomplishes that purpose is to impose an imaginary property line between multi-structures so that noise can be effectively measured and controlled. Thus, structures would be surrounded by an imaginary envelope which protects persons within against noise coming from outside the envelope.

Your Committee has also amended the bill to delete the appropriation provision since none is required.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 794, as amended herein and recommends that it pass First Reading in the form attached hereto as S.B. No. 794, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 203-76 Health on S.B. No. 1814-76

The purpose of this bill is to protect the rights and health of both the smoker and non-smoker by regulating smoking in certain places open to the public.

Your Committee on Health has received overwhelming support of this administration bill which was introduced by the Department of Health due to the conclusive evidence indicating the harmful effect of smoking in an enclosed area. The problem is not simply a matter of discomfort and annoyance to the non-smoker. The 1975 Report of the Surgeon General reaffirms the health hazards of tobacco smoke in enclosed areas, citing many studies and their conclusions. The term "Involuntary Smoking" is used to show that non-smokers in a smoke-filled environment are exposed to many of the same constituents of tobacco smoke that voluntary smokers experience.

Your Committee on Health has further found that the following states have prohibitions on smoking in certain public places: Arizona, Alaska, California, Connecticut, Delaware, Florida, Georgia, Kansas, Maine, Maryland, Massachusetts, Minnesota, Nebraska, Nevada, New Hampshire, New York, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Vermont, Washington, Wisconsin, Wyoming, and the District of Columbia.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1814-76 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 204-76 Health on S.B. No. 2390-76

The purpose of this bill is to better curb the incidence of rubella infections during pregnancy by mandating rubella testing or proof of vaccination for women prior to issuing a marriage license.

Your Committee finds that despite nationwide immunization programs, rubella infections continue, and the incidence of babies or children afflicted with the congenital rubella syndrome also continues in this State. The permanent defects caused by congenital rubella infections include mental retardation, blindness, deafness, cerebral palsy, heart disease, and early death.

Your Committee finds that a survey by two doctors of the University of Hawaii School of Medicine determined an unusually high rate of rubella susceptibility among young adults in Hawaii, particularly among young women of multiethnic origin who had not experienced extended stays outside of Hawaii and among young women of Japanese origin.

Your Committee finds that a premarital rubella examination is a relatively inexpensive opportunity to screen women for their susceptibility to rubella and then inform them of the need to be vaccinated.

Your Committee is satisfied that precautions will be taken for a woman not to be or become pregnant at the time of or within three months following vaccination.

Your Committee adopted the recommendations of the Department of Health by amending the bill to:

(1) insert commissioned medical officer of the United States "Air Force" in Sec. 572-7(a) and (i).

(2) insert "or has provided proof of immunization with live rubella virus vaccine" into Sec. 572-7(i). If the female applicant has been properly immunized, the serological test is not necessary and is only of limited academic interest.

(3) delete "and has been advised and counseled as to the results of the test..." from Sec. 572-7(i). Section 572-7 (d) requires reporting of syphilis serology test prior to issuance of the marriage license. While the results of syphilis serology tests are available within 72 hours, this may not be true for rubella testing, depending on the final decision about where the tests will be done. Turn-around time might be as long as two weeks under certain circumstances and this delay in some marriages could be undesirable. Since the intent of this bill is to identify susceptible females, simply obtaining the serum for testing should be sufficient.

(4) Substitute in Sec. 572-7(i)(1) "because of tubal ligation, hysterectomy, postmenopausal or any other medically determined condition." The Hawaii Medical Society reviewed this bill and suggested an age restriction but we think the working of "postmenopausal" will satisfy their intent.

(5) delete Sec. 572-7(i)(2) and provide for a procedure for obtaining a court order more consistent with the purpose of requiring a rubella test.

(6) provide that the actual test for rubella (as distinguished from the obtaining of the specimen) be performed in one laboratory in the state. Tests for rubella antibody are technically complicated, variable and difficult to standardize. Even a standard test done in two different laboratories may yield variable results. Serum specimen storage is especially necessary in case initial results need verification at some future date. The last sentence of this paragraph presents a problem because it implies that tests could be done in another laboratory. This is contrary to the department's strong recommendation that all rubella serological testing must be confined to one laboratory.

(7) provide under Sec. 572-7(i) that the rubella test be offered at State expense and that the Act shall be automatically repealed after five years from its effective date in the middle of 1976. If at the end of the term, it is necessary to continue the program, there should be serious consideration of charging the consumers for this laboratory service. This five-year term is justified by current predictions that this law will not be justifiable after 1980. While immunization rates in female Hawaii residents from age 18 through 35 are low (30 to 50 percent), the rates in school children are very high. Due to Act 51-74, virtually all (99 percent) children in grades kindergarten to third have been immunized. As these girls mature to puberty, the immunization rates of those girls applying for marriage licenses will increase accordingly. This amendment is to insure a complete review of continuing need once this change in immunization rates has occurred.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2390-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2390, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRRep. 205-76      Public Utilities on S.B. No. 1741-76

Your Committee heard extensive testimony on three bills relating to the Public Utilities Commission, House Bill No. 399, H.D. 2, Senate Bill No. 1741-76 and Senate Bill No. 2122-76. Since Senate Bill No. 1741-76 is the short form bill, testimony relating to the other two bills has been taken into consideration and pertinent sections thereof have been incorporated into this bill. The purpose of this bill is to make members of the Public Utilities Commission full-time employees of the State. As amended, the bill also provides for commission staffing, including the appointment of neighbor island liaison officers, transferring jurisdiction of the Commission to the Department of Budget and Finance for administrative purposes only, submission of annual reports, appointment of hearings officers and the designation of the Director of Regulatory Agencies to bring

matters before the Commission.

Your Committee has found that because of the heavy workload demands undertaken by the Public Utilities Commission, the present part-time commission should be changed to a full-time body. Since Statehood was achieved in 1959, the responsibilities of the Public Utilities Commission in regulating public utilities such as gas, electric, telephone, sewage and transportation companies have increased at a tremendous rate. The Commission's responsibilities include the full spectrum of regulatory matters including accounting practices, safety, rate-making, financing, certification, and adequacy of services provided. Moreover, the matters which come before the Commission, especially in rate-making proceedings, are often extremely complex and involve questions dealing with various fields of knowledge such as accounting, engineering, financing and law. In addition, because of the nature of its responsibilities, the decisions made by the Commission can have a significant impact on the community.

Based on a comparison of the 50 states, 44 states have full-time commissions while only 6 states have part-time commissions. As to the number of commissioners, 37 states have 3-member commissions which is the number provided in this bill.

Your Committee has provided for 6-year terms which is consistent with the position taken by 34 other states. This should attract a broad base of candidates who might wish to be considered for appointment to the Commission. Because of the complexities of the regulatory process, this will also give the commissioners more time to fully understand the many facets of public utility regulation. Your Committee has also removed the 2-term 8 consecutive year limitation and provided that in lieu thereof no member shall serve more than 12 consecutive years. This is necessary to permit a commission member to serve 2 complete 6-year terms.

In order to achieve staggering of terms, the terms of the first full-time commissioners have been set at 2, 4 and 6 years.

Because of the complexities of the regulatory process, your Committee has set forth general qualifications for the commissioners in that the Governor is directed to appoint persons with experience in accounting, business, engineering, government, finance, law or other similar fields.

Salaries of Commission members have been tied to the salary level of circuit court judges, with the chairman receiving a salary equivalent to the pay of a circuit court judge and the other Commission members receiving 95% of the chairman's salary.

Your Committee firmly believes that the Commission should have its own independent staff under its direct supervision. Such staff should have the expertise and experience necessary and essential to cope with the very large and complex tasks of regulating public utilities, to facilitate decision-making in the public utilities field, and to handle other filing and administrative functions.

Because of the concern which has been expressed for direct neighbor island access to the Commission, your Committee has included a provision requiring the appointment of a Public Utilities Commission liaison officer for each neighbor island county, requiring that such person shall reside in the respective counties. The liaison officer will be responsible for receiving complaints from consumers and meeting with the public utilities in the respective counties to attempt to resolve such complaints. He will report directly to the Commission. The chairman of the Commission can also appoint the liaison officer to carry out certain investigative functions for the Commission.

Because of a possible ambiguity in the present law, your Committee has added a provision to Section 269-3 which would permit the commissioners to consult with their staff in any contested case. The staff would be prohibited from consulting with any parties in a proceeding except upon notice and opportunity for all parties to participate, a practice which the Commission itself is already required to follow under Section 269-3.

Your Committee has amended Section 269-5 to require a more detailed and extensive annual reporting system to the Governor on all public utility matters. The Commission is also required to establish and maintain a register of all its orders and decisions which shall be open and readily available for public inspection.

Your Committee has amended Section 269-6 to permit the appointment of one of the Commission members as a hearings officer to hold hearings basically on all matters except rate proceedings and other matters relating to tariffs filed by the public utilities.



Your Committee has amended Section 269-15 to provide that the Commission can institute proceedings on its own motion to enforce the requirements of Chapter 269. The Commission is also given the authority to direct the Director of Regulatory Agencies to appear in any proceedings before the Commission. Specific references to examining matters which may fall within the jurisdiction of the Federal Interstate Commerce Commission have been deleted and broader language has been substituted in its place.

In keeping with the view that the functions of the Public Utilities Commission be kept separate from that of the Public Utilities Division, your Committee recommends that, for administrative purposes only, the Public Utilities Commission be relocated to an appropriate existing department other than the Department of Regulatory Agencies which presently houses both the Public Utilities Commission and the Public Utilities Division.

The Department which seems to be best fitted to have jurisdiction over the Commission is the Department of Budget and Finance. Accordingly, your Committee has provided that the Commission shall be placed within that department for administrative purposes only. To insure the Commission's independence, your Committee has added a new section to Chapter 201 which clearly establishes this principle.

As part of the transfer of jurisdiction to the Department of Budget and Finance, Section 26-9, relating to the jurisdiction of the Department of Regulatory Agencies, has been amended to delete the Public Utilities Commission.

In order to provide for an orderly transition from the present Commission to the full-time Commission, the new Commission is granted the authority to appoint commissioners who were serving prior to the effective date of the Act as hearing officer(s) to continue to hear cases which were filed prior to the effective date of the Act. The hearing officer would submit a recommended decision to the new Commission for its approval.

Your Committee has appropriated the sum of \$417,042 for the operation of the Commission and its staff. In addition, the Director of Regulatory Agencies is transferring the sum of \$94,305 and one position to the Public Utilities Commission as newly constituted. These transferred funds represent amounts contained in Act 175, Session Laws of Hawaii 1975, which were budgeted for use by the present Public Utilities Commission. Since the new Commission will be placed in the Department of Budget and Finance, this authorization for transfer is necessary.

The sum appropriated will fund 3 full-time commissioners and 14 staff members, including a liaison officer in each of the neighbor island counties.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. No. 1741-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1741-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 206-76 (Majority) Economic Development on H.B. No. 1624

The purpose of this bill is to restore to the shoreline setback law (Section 205-33, Hawaii Revised Statutes) two classes of prohibition that were omitted in error when the law was amended in 1974. These are (b) new shoreline structures and (c) replacement of shoreline structures. The revision of Section 205-33 proposed in this bill would restore the statutory underpinnings of county ordinances regulating construction in the shoreline setback area.

According to the bill, no structure or any portion thereof shall be permitted within the shoreline area, with the exception of those structures which legally existed on June 22, 1970 and those structures which may be necessary for safety and for protection from erosion and wave damage. The bill further permits the replacement or reconstruction of nonconforming structures within the shoreline setback area.

After a thorough discussion, your Committee recognizes the importance of restoring subsections (b) and (c) to the law as these subsections provide the underpinning of the county ordinances regulating construction in the shoreline setback area.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1624, H.D. 1, S.D. 1 and recommends that it be referred to your Committee on Ways and Means.

Signed by all members of the Committee. Senator King did not concur.

SCRep. 207-76 Human Resources on S.R. No. 176

The purpose of this resolution is to request the United States Congress to review the basic concepts of the unemployment insurance program, with particular attention to methods of financing benefit payments.

Present law contains contribution rates schedules which were designed to apply to periods of normal economic conditions and to cope with a recession of not more than 18 months. Due to the long period of economic recession experienced since 1971, a period of five years, the current contribution rate schedules are inadequate to maintain the Trust Fund at a solvent level. Because of the adverse effect of the economic recession, all employers are paying contributions at the flat rate of 3.0 percent, regardless of their experience in the unemployment insurance program. In spite of this measure built into the law the Trust Fund has continued to decline, and the State has had to borrow from the Federal Unemployment Trust Fund.

Hawaii is not alone in this situation. As of February 19, 1976, 19 states have borrowed from the Federal Unemployment Trust Fund, and more states are expected to borrow in the near future.

Your Committee believes that the insolvency of many states' unemployment insurance programs following the prolonged nation-wide recession indicates that current financing provisions are inadequate to cope with extreme conditions. Your Committee further believes that this resolution may provide some solutions to relieve the current drain on the Unemployment Insurance Trust Fund and to restore the solvency of the Trust Fund.

Your Committee on Human Resources is in accord with the intent and purpose of S.R. 176 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 208-76 Human Resources on S.B. No. 1899-76

The purpose of this bill is to improve the delivery of programs and services for the State's children and youth. Interim and pre-session work conducted by your Committee highlighted several major problems in the area of children and youth programs and services such as the lack of coordination among the services and planning activities of the various departments of the State, duplication of services, lack of clarity and responsibility for services, and inadequately articulated interagency programs.

The bill provides for the establishment of a new office, the office of children and youth, within the office of the governor to replace the existing commission on children and youth and the existing office of youth affairs, office of information and youth affairs in the office of the governor.

Testimony received by your Committee sitting in joint session with the House Committee on Youth and Elderly Affairs on February 12, 1976, was strongly in support of the intent and purposes of S.B. No. 1899-76. Testimony also recommended the need to clarify the role and relationship of the proposed office of children and youth with the several counties and the need to delineate juvenile justice programs and planning within the overall framework of children and youth programs.

Your Committee has amended the bill to incorporate suggestions relating to the counties and juvenile justice programs. Specific language has been added to provide that the intent of the bill is to provide maximum authority to the counties with respect to the development and implementation of county programs. Other amendments include a reduction in the number of members to serve on the advisory council for children and youth from twenty-one to seventeen members. Finally, your Committee has amended the bill to provide that only the youth affairs office of the office of information and youth affairs in the office of the governor is to be repealed. The bill had originally provided for the repeal of the office of information and youth affairs in its entirety.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1899-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1899-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 209-76 Human Resources on S.B. No. 2559-76

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$85,000 in order to enable the implementation of a demonstration project designed to improve transportation services in rural areas for the elderly, handicapped and other disadvantaged persons.

Your Committee finds that the elderly and handicapped are faced with a pressing need for adequate transportation. The elderly, handicapped, and disadvantaged persons residing in Kauai County are experiencing hardship in responding to the needs of daily living due to the lack of transportation.

Furthermore, your Committee finds that Kauai is the county with the highest percentage of elderly and has the second highest percentage of elderly living below poverty level. For these persons living on limited incomes, the provision of adequate transportation will make possible their participation in various programs available and improve their standard of living.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2559-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 210-76 Human Resources on S.B. No. 2560-76

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii, the sum of \$60,000 to demonstrate a human resources development program for progressive neighborhoods youths modeled after the "Outward Bound" program.

Your Committee finds that the "Outward Bound" program enhances the human development of young people. The potential impact of this program seeks to develop personal self-awareness, self-esteem, self-reliance, understanding and compassion for others confidence in the self and others and similar social traits.

Furthermore, your Committee finds that the value of this program has been well proven by the 35,000 students who have completed the mainland Outward Bound courses. And although the program is for the benefit of the general public, special attention should be called to its effect on delinquent and pre-delinquent youngsters. For example, in Massachusetts, researchers were able to document a 50 percent cut in recidivism among juvenile youths put through the program.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2560-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 211-76 Human Resources on S.B. No. 2351-76

The purpose of this bill is to require an annual independent audit of the Unemployment Insurance Trust Fund.

Presently, even while there is rapid drain and resulting insolvency of the Trust Fund, there is no requirement for an audit of the Trust Fund. An annual independent audit is necessary to insure that the financial reports accurately reflect the financial position and operating results of the Trust Fund.

Your Committee believes that this bill will help to maintain an adequate system of internal control. Your Committee further believes that this bill will see that the internal control system continues to function effectively as designed.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2351-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 212-76 Human Resources on S.B. No. 2643-76

The purpose of this bill is to increase the monthly Dental Plan contribution from \$2.57

to \$3.26 in order to maintain the current level of benefits for the children of State employee beneficiaries under age 19 who are enrolled in the Health Fund's Dental Plan.

Your Committee finds that an appropriation of \$243,400 is being requested to fund the anticipated 26 percent increase in dental insurance premiums for the 1976-77 fiscal year. Your Committee also finds that current Dental Plan benefits, include a 100 percent payment for diagnostic services (annual exams, semi-annual teeth cleaning, X-rays as required, and emergency care) and a 60/40 percent co-payment for other dental services excluding orthodontics.

Your Committee further finds that without additional funding, the parents of such children will be required to pay a higher portion of their dentist's billing because benefits will be reduced to either a 100 percent payment for diagnostic services and 40/60 percent co-payment for other dental services excluding orthodontics or a 60/40 percent co-payment for all dental services excluding orthodontics.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2643-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 213-76 Human Resources on S.B. No. 2711-76

The purpose of this bill is to delete the requirement of 10 years of service of which the last five or more years prior to retirement must be as policemen, firemen or corrections officer.

Your Committee finds that the deletion of this requirement would make it possible for a member, who had a part of his total service as a policeman, fireman, or corrections officer, to have that part of his service computed on the basis of 2-1/2 percent and also to permit any member in these occupations to transfer to some other occupation without jeopardizing the benefit which he accrued in his former position.

Under the present law, policemen, firemen, and corrections officers receive, or will receive, a preferred retirement benefit of 2.5 percent of average final compensation for each year of credited service and are permitted to retire without any reduction of their benefits with 25 years of service regardless of age.

Your Committee further finds that these individuals have served under the police department with the intention that they would maintain a career in the police department. However, because of the individual circumstances, some people have moved on to other careers or occupations. During the time that they served as police officers, they were exposed to the many hazards of the work without being covered under the Social Security benefits. Your Committee feels that for these reasons, these people should not be penalized for moving on to other careers or occupations.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2711-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 214-76 Human Resources on S.B. No. 2712-76

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii, the sum of \$25,000 to provide an additional one hundred meals a day at three food service sites on Kauai and to provide for the hiring of one additional staff person.

Your Committee finds that of the several innovative program implemented over the past several years, the various food and nutrition programs have had the greatest beneficial impact for the elderly. An adequate diet in maintaining physical and mental health needs is crucially important. However, many elderly persons in the State living on limited and fixed incomes are suffering from the consequences of inadequate nutritional intake.

Furthermore, your Committee finds that Kauai County has the highest percentage of elderly and the second highest percentage of elderly persons living at, or below, poverty level. The program is currently funded entirely by federal funds (AoA Title VII) and

serves 240 meals in four sites on Kauai. The continuing success of the food programs for the elderly can be assured by the provision of additional financial support to enable food service programs to those needy elderly not being served.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2712-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 215-76 Human Resources on S.B. No. 2720-76

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$25,000 for a congregate dining program for the elderly residents on the Waianae coast.

Your Committee finds that in Waianae, many of the elderly are illiterate, live in inadequate housing, and are at a great disadvantage in dealing with the agencies which control resources. These elderly persons need the supportive services being that most of them are receiving supplemental security income (SSI).

Furthermore, your Committee finds that the congregate dining program would provide an adequate diet that is often times lacking. Also, the program will increase socialization among the lonely elderly.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2720-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 216-76 Human Resources on S.B. No. 2121-76

The purpose of this bill is to require the Department of Social Services and Housing to adopt rules to follow in paying under Medicaid for medical and other professional health services on the basis of usual and customary charges in order to enable physicians and other providers of professional health care services to prudently offset the rising costs in the delivery of adequate medical and other professional health care services.

In the testimony presented by the Department of Social Services and Housing it has become evident that the present bill would allow increases in medical service fees without restraint. Thus, the State would not be able to effectively control spiralling inflation of medical service fees for public assistance recipients. The effect upon the State would be to allow the medical profession to set the State's fiscal budget.

Your Committee is aware of the monetary restraints to be felt by the medical community and the after-effects on the entire public assistance recipient population, however, your committee is equally aware of the necessity of effective fiscal management.

Your Committee adopted recommendations of the Department of Social Services and Housing by amending section 2 of the bill by changing the period after the word "pay" in line 19 to a semicolon and adding the following material:

"provided, however, that the payments by the department do not exceed the maximum fees allowable under federal law upon which the appropriations for this section were based; provided further that the maximum allowable fees under federal law upon which the appropriations for this section were based shall be utilized for the entire period covered by the appropriation. On or before January 1 of odd numbered years, the Director shall submit a report to the Legislature concerning the adequacy of the maximum fees allowable under federal law."

Your Committee has also adopted further recommendations of the Department of Social Services and Housing by amending HRS Sec. 346-58, by changing the period following the word "pay" to a semicolon and adding the following material:

"provided, however, that the payments by the department do not exceed the maximum fees allowable under federal law upon which the appropriations for this section were based; provided, further that the maximum allowable fees under federal law upon which the appropriations for this section were based shall be utilized for the entire period covered by the appropriation. On or before January 1 of odd numbered years, the Director shall submit a report to the Legislature concerning the adequacy of the maximum fees allowable

under federal law."

The purpose of these amendments to the bill is to base the payments of the Department of Social Services and Housing on the maximum fees allowable under federal law upon which the appropriations for these sections were made and to utilize the maximum fees allowable under federal law upon which the appropriations for these sections were based for the entire period covered by the appropriation.

Furthermore, on January 1 of each odd numbered year the Director shall submit a report to the Legislature concerning the adequacy of the maximum fees allowable under federal law in order that the Legislature may take any appropriate action. These amendments will allow the State to more accurately project its budget as well as controlling medical service expenses and costs spirals.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2121-76, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2121-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 217-76 Ecology, Environment and Recreation on S.B. Nos. 2011-76, 2012-76, 2020-76, 2114-76, 2117-76, 2127-76, 2129-76, 2130-76, 2145-76, 2166-76, 2167-76, 2168-76, 2169-76, 2204-76, 2205-76, 2206-76, 2254-76, 2255-76, 2256-76, 2289-76, 2290-76, 2343-76 and 2360-76

These bills all appropriate funds for capital improvement projects involving parks and recreation.

Your Committee on Ecology, Environment and Recreation is in accord with the intents and purposes of these bills and recommends that they pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 218-76 Ecology, Environment and Recreation on S.B. Nos. 2170-76, 2207-76, 2467-76, 2477-76, 2606-76, 2686-76, 2699-76, 2906-76 and 3018-76

These bills all appropriate funds for capital improvement projects involving parks and recreation.

Your Committee on Ecology, Environment and Recreation is in accord with the intents and purposes of these bills and recommends that they pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 219-76 Ecology, Environment and Recreation on S.B. No. 1949-76

The purpose of this Bill is to amend Chapter 225, Hawaii Revised Statutes, to include the directors or chairmen from the departments of health, social services and housing, and the office of environmental quality control as members of the policy council.

Your Committee has deleted the references to the directors or chairmen of education and the Hawaii housing authority in Section 1, and amended the Bill by inserting a new provision, "and Hawaii housing authority." This amendment reflects the reality, pointed out by testimony at a public hearing by the department of planning and economic development that the executive officers of the department of education and the Hawaii housing authority are designated by the titles of superintendent and executive director, respectively.

The Bill charges the director of the policy council with the responsibility of holding additional hearings not less than six months prior to finalization and submission of the State plan to the legislature. In addition to these public hearings, it is your Committee's intent that the policy council hold informational meetings including workshops for the legislature and the public and has so amended the bill.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1949-76 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1949-76, S.D. 1, and be referred to the Committee on Economic Development.

Signed by all members of the Committee.

SCRep. 220-76 Ecology, Environment and Recreation on S.B. No. 2158-76

The purpose of this Bill is to appropriate funds out of the general revenues of the State of Hawaii for acquisition of Wawamalu (Queen's) Beach, Oahu.

Your Committee has amended the bill by deleting reference to the Tax Map Keys and providing language used in Act 195, SLH 1975, as recommended by the Department of Land and Natural Resources at a public hearing on this bill.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2158-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2158-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 221-76 Ecology, Environment and Recreation on S.B. No. 2197-76

The purpose of this bill is to confer permanent civil service employment status on project-funded employees of the Lapakahi State Historical Park project.

The Department of Land and Natural Resources is not in concurrence with this bill, maintaining that the employees involved predominantly are general laborers, and that the department will not have sufficient employment for them once park development is completed. The department also advises that the cost of civil service status for the 22 positions involved will exceed \$200,000 per year.

Upon reviewing testimony on the subject, however, your Committee finds that the cost of conversion to civil service status will be nearer \$185,000. Your Committee also finds that the Kohala region of the Island of Hawaii in which the park is located is subject to unusually high unemployment, and that this bill will help alleviate such unemployment.

Testimony indicated that the intent of the bill was to apply only to the original 22 employees hired, not the approximately 30 temporary employees subsequently hired.

Your Committee has amended the bill to apply to those park project employees hired prior to January 1, 1976.

Your Committee finds that upon enactment of this bill, Lapakahi Park project employees hired prior to January 1, 1976, will become full time civil service employees and will be assigned to appropriate classes in the civil service compensation plan without restriction on rate of pay within their respective classifications. They will receive vacation and sick leave benefits and become members of the retirement system. Citizenship and residency requirements will be waived.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. 2197-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2197-76, S.D. 1, and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 222-76 Ecology, Environment and Recreation on S.B. No. 2361-76

The purpose of this bill is to appropriate funds for land acquisition, plans and development of MakuaKaena Point State Park, Oahu.

Your Committee has amended the bill to provide for incremental land acquisition.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of this bill as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2361-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 223-76 (Majority) Ecology, Environment and Recreation on S.B. No. 2434-76

The purpose of this bill is to make certain amendments to Section 46-6, HRS, which

provided that each county shall adopt ordinances to require a subdivider, as a condition precedent to approval of a subdivision, to provide land in perpetuity or to dedicate land, together with facilities, for park and playground purposes.

Your Committee finds that although this Act was passed in 1970, not all counties have adopted such ordinances.

Your Committee has amended the bill by deleting language which would have amended the statute by making it possible for a subdivider to receive credit for lands dedicated which are to be preserved substantially in a natural state. Your Committee has further amended the bill by deleting language which would have amended the statute by providing that all land dedicated shall be for public use and shall be accessible to the general public as each county may provide.

Your Committee has further amended the bill by deleting language which would have amended the statute by defining "subdivision" as any land which is divided or is proposed to be divided for the purpose of disposition into six or more lots, parcels, units, or interests and also includes any land whether contiguous or not, if six or more lots, parcels, units, or interests are offered as part of a common promotional plan of advertising and sale.

Your Committee has further amended the bill by deletion language which would have amended the statute by providing that no county shall permit subdivision of land if it has not adopted an ordinance within one year after the effective date of this act, provided that subdivision shall be permitted once such an ordinance is in effect.

Your Committee has further amended the bill by putting in a deadline of January 1, 1977, at which time initial ordinances consistent with this section shall be adopted.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2434-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2434-76, S.D. 1 and be referred to the Committee on Economic Development.

Signed by all members of the Committee. Senator Hara did not concur.

SCRep. 224-76 Ecology, Environment and Recreation on S.B. No. 2465-76

The purpose of this Bill is to appropriate \$500,000 for land acquisition and park development at Sacred Falls on Oahu.

Your Committee is concerned about the lack of public access to the area, for which prior appropriations have also been made, and discussed this matter subsequent to the hearing with the department of land and natural resources. The department has confirmed the lack of any public access but has suggested that part of the money appropriated could be used to acquire what is presently a private road.

Although concerned about the present lack of public access, your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of this bill and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 225-76 Ecology, Environment and Recreation on S.B. No. 2466-76

The purpose of this Bill is to appropriate \$250,000 or so much thereof as may be necessary, out of the general revenues of the State of Hawaii, for the acquisition of land, designing, planning, and construction of a park in Manana-Uka Valley (Waimano Gulch) between Pacific Palisades and Pearl City.

The department of land and natural resources testified in favor of the Bill, and has advised your Committee that the parcels contemplated involve 58.494 acres, being TMK 9-7-25: 10, 9-7-25: 13, and 9-6-04: 10.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2466-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.



SCRep. 226-76 Ecology, Environment and Recreation on S.B. No. 2529-76

The purpose of this Bill is to appropriate funds out of the general revenues of the State of Hawaii for the acquisition of lots for public park purposes identified as parcels 8 and 9 TMK 8-4-01, parcels 1, 2, 3, 4, 5, 6, 7, 8, 9 and 11 TMK 8-4-03, and parcels 1, 4, 8, 9, 10, 11, and 12 TMK 8-4-04, in the area known as Maunalahilahi, Waianae.

Your Committee finds that residents of this area feel strongly about their need for preserving parks and open space, and it would be in the best interests of the State to acquire this land for such purposes.

Your Committee has amended the Bill by deleting the provision for matching funds and by appropriating \$50,000 for the survey, title search appraisal and incremental acquisition of the land.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2529-76 as amended herein, and recommends that it pass Second Reading in the form attached hereto, as S.B. No. 2529-76, S.D. 1 and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 227-76 Ecology, Environment and Recreation on S.B. No. 2576-76

The purpose of this bill is to establish a permanent position of state botanist within the department of land and natural resources.

Your Committee finds that the department of land and natural resources by statute is responsible for the conservation of the State's flora and for enforcing regulations pursuant thereto. (HRS 195D-3 and 195D-7). The effectiveness of the department in dealing with management problems related to flora of Hawaii would be improved by the establishment of the position of a state botanist to advise the department on matters related to the continued abundance and viability of the flora.

The bill recommends that the individual be housed in close proximity to one or more major botanical collections, that is, at the Bishop Museum or at the University of Hawaii.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2576-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 228-76 Ecology, Environment and Recreation on S.B. No. 2732-76

The purpose of this Bill is to appropriate \$48,000 for construction of roads and other facilities for motorcycle trail riding at Pohakuloa, Hawaii. The Department of Land and Natural Resources has been working with interested Hawaii groups and supports the Bill.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of this Bill, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 229-76 Ecology, Environment and Recreation on S.B. No. 2759-76

The purpose of this Bill is to appropriate funds from the general revenues of the State of Hawaii for the examination of archaeological and historical sites on the island of Lanai to provide for their preservation.

Your Committee has amended the Bill to provide for a detailed archaeological and historical sites survey, stressing preservation planning.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2759-76 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2759-76, S.D. 1 and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 230-76 Ecology, Environment and Recreation on S.B. No. 1793-76

The purpose of this bill is to assure that the State retains primary enforcement responsibility of the National Pollutant Discharge Elimination System (NPDES) permit program in Hawaii by amending Chapter 342, Hawaii Revised Statutes, to more closely conform to the requirements set forth in Section 402 of the Federal Water Pollution Control Act (F.W.P.C.A.), as amended.

Your Committee finds that the F.W.P.C.A. deals with the discharge of substances into the water. One of the major goals of the F.W.P.C.A. was to move from enforcement based solely on water quality standards to effluent emission limitations. The present NPDES permit system allows enforcement of discharge limits without showings of water quality change.

If Hawaii Revised Statutes, Chapter 342, is construed to require a showing of harm to water quality to establish a violation, it would severely jeopardize Hawaii's present primary enforcement responsibility with respect to NPDES permits. This bill therefore amends Chapter 343, Hawaii Revised Statutes, to insure conformity with the federal act by: adding a new definition of "pollutant," which is practically identical to the federal definition; by prohibiting water pollution, to clarify that the state is controlling discharges, and not just water quality; and by modifying language in the statute which suggests that the Director of Health has unlimited power to grant variances from water pollution control requirements.

After hearing testimony from the Office of the Attorney General at a public hearing on this bill, your Committee has amended the bill to add the term "solid" to the term "waste" in the definition of "pollutant."

Your Committee has further amended the bill to add a new definition of "waste." It has also changed the word "soil" in the definition of a pollutant to "spoil" to conform to the F.W.P.C.A.

Also, at the suggestion of the department of health, your Committee has further amended the bill to add a new section to insure that this bill does not invalidate existing regulations of the department of health. The department of health and the office of the attorney general also recommended that the words "or cause or allow any pollutant to enter into state waters" be added to the prohibition section of this bill.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of this bill as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1793-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 231-76 Ecology, Environment and Recreation on S.B. No. 2195-76

The purpose of this bill is to provide means for the State to acquire land in order to maintain or create open space.

Your Committee has amended the bill to appropriate \$500,000 or so much thereof as may be necessary for the acquisition for public recreation and open space those portions of TMK 8-4-04 identified as parcels 8, 10, 11, and 12 in the area known as Maunalahilahi, Waianae, Oahu.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2195-76, as amended herein and recommends that it pass First Reading in the form attached hereto as S.B. 2195-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 232-76 Ecology, Environment and Recreation on S.B. No. 1889-76

The purpose of this bill is to appropriate funds to provide a grant-in-aid to the City and County of Honolulu, to be expended upon a comprehensive study of current and proposed land use in the Manoa Valley area, and the feasibility of establishing a special planning district within the boundaries of Manoa Valley.

Your Committee has amended the Bill to provide that a special planning district may be established should the study so warrant.

Your Committee has further amended the Bill to state that the expending agency shall be the City and County of Honolulu.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1889-76, S.D. 1, as amended herein, and recommends that it be referred in the form attached hereto as S.B. No. 1889-76, S.D. 2, to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 233-76 Education on S.R. No. 32

The purpose of this Resolution is to request that the Department of Education and the Hawaii State Teachers Association and the Hawaii Government Employees Association report to the Senate of the Regular Session of 1977 on the evaluation program and its implementation.

The public, members of the teaching profession, and the legislature have patiently awaited the establishment of an evaluation program for teachers and education officers of the Department of Education. The Committee is aware that there have been a great many difficulties in establishing an evaluation procedure acceptable to the various parties involved and is aware also of the efforts that have been made to resolve these issues. But your Committee believes that there is a compelling need for an evaluation program that can no longer be denied and therefore takes this means of urging the final resolution of this matter.

Your Committee on Education concurs with the intent and purpose of S.R. No. 32 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 234-76 Education on S.R. No. 136

The purpose of this Resolution is to request that the Board of Education and the Superintendent of Education be requested to define what a diploma issued by the Department of Education represents and that the superintendent review the reading-related instructional programs of the department for their effectiveness.

The clauses of this Resolution mirror sentiments expressed by the public in personal communication with their legislators and in the communications media and your Committee believes that a departmental response is in order.

Your Committee on Education concurs with the intent and purpose of S.R. No. 136 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 235-76 Education on S.B. No. 1908-76

The purpose of this bill is to appropriate funds for capitol improvement projects for schools in the Windward School District.

Your Committee has amended the bill to include more capital improvements for the Windward School District that were under the Committee's purview.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1908-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1908-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 236-76 Education on S.B. No. 1909-76

The purpose of this Bill is to appropriate funds for capitol improvement projects for schools in the Seventh Senatorial District.

Your Committee has amended the Bill to include more capital improvement projects for the Seventh Senatorial District that were under the Committee's purview.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1909-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1909-76, S.D. 1, and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 237-76 Education on S.B. No. 1923-76

The purpose of this Bill is to appropriate funds for capital improvement projects for schools in the Sixth Senatorial District.

Your Committee has amended the bill to include another capital improvement project for the Sixth Senatorial District that was under the Committee's purview.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1923-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1923-76, S.D. 1, and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 238-76 Education on S.B. No. 1941-76

The purpose of this bill is to appropriate funds for capital improvement projects for schools on the Big Island.

Your Committee has amended the bill to include more capital improvement projects for schools on the Big Island that were under the Committee's purview.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1941-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1941-76, S.D. 1, and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 239-76 Education on S.B. No. 1961-76

The purpose of this Bill is to appropriate funds for capital improvement projects for schools in the County of Maui.

Your Committee has amended the bill to include more capital improvement projects for the County of Maui that were under the Committee's purview.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1961-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1961-76, S.D. 1 and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 240-76 Education on S.B. No. 1963-76

The purpose of the Bill is to provide funds for the construction of a multi-purpose gymnasium at Moanalua High School.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1963-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 241-76 Education on S.B. No. 2044-76

The purpose of this Bill is to provide supplemental funds for capital improvements

at Maemae Elementary School, Oahu.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2044-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 242-76 Education on S.B. No. 2113-76

The purpose of this bill is to appropriate funds for capital improvement projects for schools in the Fourth Senatorial District.

Your Committee has amended the bill to include more capital improvement projects for the Fourth Senatorial District that were under the Committee's purview.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2113-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2113-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 243-76 (Majority) Education on S.B. No. 2299-76

The purpose of this bill is to initiate a three-year program at the elementary school level to encourage educational innovation by providing individual public classroom teachers with additional funds to be expended, in their professional judgment, for the benefit of their students.

Funds appropriated are intended to supplement resources normally provided to elementary teachers and classrooms. The Department of Education has indicated through testimony received at public hearing that while the early years of schooling is critical, it is equally necessary to encourage and support educational innovations at the secondary level. Your Committee is mindful of the Department's concern and anticipates program extension to the secondary level upon evaluating the success of this program at the elementary school level.

Your Committee has amended the bill to reflect correctly the funding necessary for the program. The sum appropriated is changed from \$450,000 to \$180,000.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2299-76 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2299-76, S.D. 1 and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee. Senator Anderson did not concur.

SCRep. 244-76 Education on S.B. No. 2300-76

The purpose of this bill is to provide funds to each public school for the services of individuals from the community, especially from among the State's senior citizens, to enrich the learning experience within the schools through the sharing of practical skills, talents, and firsthand experiences.

Your Committee on Education has heard testimony presented by the department of education indicating its support for the bill and its recognition of the wealth of available community resources which are being utilized in some schools on a voluntary basis at the present time. Equally supportive of the intent of S.B. No. 2300-76 is the commission on aging. The commission recommended, however, that it be the expending agency in order to strengthen the coordination function of the commission in program planning, development and implementation.

Your Committee on Education has adopted the recommendation of the commission on aging and has accordingly amended S.B. No. 2300-76 to reflect this concern by making minor changes to the language of Section 1 of the bill in clarifying and streamlining its content and by adding as the last paragraph the following:

"The legislature finds that the commission on aging can serve as an effective mechanism in coordinating, retrieving, and centralizing demonstration personnel in the various

areas that the department of education may require in meeting the needs of its classroom enrichment program. The legislature intends that funds provided under this Act shall be expended by the commission on aging pursuant to a contract with the department of education in allocating funds for demonstration personnel at each public school."

Your Committee on Education has further amended S.B. No. 2300-76 by deleting Section 2 in its entirety and replacing it with a new Section 2 to conform with the purpose of the bill as amended and by changing the apportionment formula and corresponding appropriation from \$180,000 to \$176,000 so that it is based upon the total number of students enrolled in public schools as opposed to the total number of classroom teachers at each school by inserting the following:

"SECTION 2. Appropriation. There is appropriated to the commission on aging from the general revenues of the State of Hawaii the sum of \$176,000, or so much thereof as may be necessary, to contract with the department of education for the purpose of allocating funds to each public school in the 1976-1977 regular school year for classroom enrichment purposes; provided, that each school shall receive an amount apportioned by multiplying the total number of students enrolled at that school times \$1; provided, further, that a person performing demonstration services shall receive an honorarium of \$10 per demonstration; provided, further, that the commission on aging and the county offices on aging shall assist the department in compiling information relating to the senior citizen resources available for participation in the classroom enrichment program. Funds appropriated by this Act shall lapse on June 30, 1977, if not encumbered or expended by that date."

The purpose of these amendments to the bill is to provide for a more effective and equitable method of distributing funds appropriated for the classroom enrichment program.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2300-76 as amended and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2300-76, S.D. 1 and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 245-76 Education on S.B. No. 2464-76

The purpose of this bill is to establish a voter education program. The chief elections officer of the State shall conduct research and implement programs for dissemination and use by schools, civic organizations, community groups and all others who share a common interest in this program.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2464-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 246-76 (Majority) Education on S.B. No. 2609-76

The purpose of this bill is to provide funds for the production of informational and instructional films on state and local governments.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2609-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee. Senator Anderson did not concur.

SCRep. 247-76 Education on S.B. No. 2704-76

The purpose of this Bill is to provide a grant-in-aid to the Honolulu Theater for Youth for the planning and construction of a theater building on Oahu.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2704-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 248-76 Education on S.B. No. 2749-76

The purpose of this bill is to provide capital improvements for Pearl Harbor Kai Elementary School, Oahu.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2749-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 249-76 Education on S.B. No. 2990-76

The purpose of this bill is to appropriate funds for the Youth Conservation Corps Program. The Committee believes that the educational benefits derived from this program should continue to be offered.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2990-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 250-76 Human Resources on S.B. No. 2099-76

The purpose of this bill is to appropriate \$40,000 out of the general revenues of the State of Hawaii in order to coordinate and increase the use of volunteer services through the Office of Volunteer Services.

Your Committee finds that there is an increasing demand for human services, but there is also a demand to hold spending and avoid tax increases. Both these demands can be met through the increased use of volunteer services.

Furthermore, your Committee finds that the office is created for the purpose of working with and assisting existing voluntary agencies in the area of information and training and in helping to improve existing voluntary services to the community. The office shall fulfill a need in areas where there are no volunteer services available or where such services are minimal.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2099-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 251-76 Public Utilities on H.B. No. 426

The purpose of this bill is to increase the penalty provisions of Chapter 269, Hawaii Revised Statutes, in order to conform with the penalty provisions required by the Natural Gas Pipeline Safety Act.

The gas system in Hawaii is subject to the Act which is administered by the United States Department of Transportation. The State Public Utilities Commission under agreement in 1971 with the United States Department of Transportation assists in the enforcement of the federal safety standards. Under the agreement, the Public Utilities Commission can only obtain voluntary compliance and must report violations or probable violations to the Office of Pipeline Safety for federal enforcement. Under the provisions of the federal Natural Gas Pipeline Safety Act, a state can be certified to assume full responsibility for a gas pipeline safety program based on state standards with respect to intrastate gas facilities over which it has jurisdiction under state law. In order to receive certification, the state standards may be the same as the minimum federal standards or may impose additional or more stringent requirements not inconsistent with federal standards. Hawaii has been unable to receive certification because the penalty provisions of the State's statutes do not conform to those of the federal Natural Gas Pipeline Safety Act of 1968. This bill would amend the penalty provisions to conform with the federal Act.

Under the present law, a public utility failing to comply with Chapter 269 or any order of the Public Utilities Commission is subject to a penalty of \$1,000 for each violation. This bill would amend the penalty to provide for a civil penalty of \$1,000 for each violation for each day of the violation up to a maximum penalty of \$200,000. However, the Public

Utilities Commission may remit or mitigate the penalty.

After due deliberation of this measure, your Committee believes that gas pipeline safety would be enhanced, duplication of effort would be minimized and match fund assistance would become available if the Public Utilities Commission were to become certified by the federal authorities for the assumption of full responsibility for gas pipeline safety in the State.

Your Committee on Public Utilities is in accord with the intent and purpose of H.B. No. 426 and recommends that it pass Second Reading and be referred to the Committee on Judiciary for further consideration.

Signed by all members of the Committee.

SCRep. 252-76 Intergovernmental Relations on S.B. No. 2557-76

The purpose of this bill is to allow the county councils to set tax rates on improved residential property without regard to the rates applied to other types of property.

Your Committee has heard testimony favorable to this bill and has amended it to include real property dedicated for residential uses within the definition of "improved residential land".

Your Committee has also amended section 246-12.3(a), HRS, by removing the age requirement to qualify for the special tax assessment privilege for dedicating lands for residential uses.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2557-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2557-76, S.D. 1, and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 253-76 Intergovernmental Relations on S.B. No. 2703-76

The purpose of this bill is to create a new class of liquor license to be known as a "hotel" license, and which would be available to those premises which qualify as a hotel, as defined by the bill, and subject to rules and regulations as set forth by the county liquor commissions.

Your Committee has amended the bill by adding the words "on the premises" after the word "consumption" on line 12, page 7 of the bill, as it is felt that liquor sold pursuant to a hotel license should be consumed only on the licensed premises. Your Committee has further amended the bill by deleting the word "shall" on line 13, page 8, and inserting in its place the word "may", thereby giving the county liquor commissions more discretion and flexibility in determining whether to grant such a license.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2703-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2703-76, S.D. 1, and be referred to the Committee on Judiciary for further consideration.

Signed by all members of the Committee.

SCRep. 254-76 Higher Education on S.B. No. 2921-76

The purpose of this Act is to make an appropriation to complete existing facilities within the University of Hawaii Communication Department by installing necessary equipment for full scale radio production instruction for students.

Testimony presented by representatives of KTUH (the University of Hawaii's non-profit radio station) indicates that the equipment that the station presently has is in need of replacement. Some of the equipment is over nine years old and has undergone heavy usage resulting in less than adequate facilities.

Your Committee feels, however, that the appropriation asked for is unnecessary at this time and has amended Section 2 of the bill by changing the amount of money in line 6 from \$50,000 to \$35,000.



Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2921-76 and recommends that it pass Second Reading in the form attached hereto as S.B. 2921-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 255-76      Judiciary on S.B. No. 1328

The purpose of this bill is to compile present laws regarding odometers which are scattered among the Hawaii Revised Statutes, and place them in one chapter, provide adequate enforcement powers to the director of weights and measures, clear up ambiguities between federal and state law, and provide civil relief to aggrieved parties.

Your Committee concurs with the conclusions reached by your Committee on Consumer Protection in its Standing Committee Report No. 78-76. To avoid duplication, however, your Committee amended the bill by also repealing chapter 292, Part II.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1328, S.D. 1, as amended herein, and recommends that it be referred to the Committee on Ways and Means in the form attached hereto as S.B. No. 1328, S.D. 2.

Signed by all members of the Committee.

SCRep. 256-76      Judiciary on S.B. No. 1553

The purpose of this bill is to prohibit the selling or dispensing of imitation milk in place of fresh milk in eating establishments unless the consumer is adequately informed of this substitution by proper labeling, and expand the authority of the Department of Health regarding imitation products.

Your Committee concurs with the conclusions reached by your Committee on Consumer Protection in its Standing Committee Report No. 49-76.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1553, S.D. 1, and recommends that it be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 257-76      Judiciary on S.B. No. 1839-76

The purpose of this bill is to amend the existing law pertaining to the fees charged insurance licensees by providing a more realistic relationship between the revenue and the cost of services rendered.

The fees shown in brackets in the bill were those in effect from January 1, 1956 until August 1, 1964 when substantially all of the fees were raised the maximum 50 per cent provided for in Section 92-28, Hawaii Revised Statutes. Since August 1, 1964, all of the \$10 issuance fees have been \$15; the \$5 annual "service" fees have been \$7.50, etc.

Since 1964 the Insurance Division costs have increased very substantially. As a typical example in the salary area, the minimum monthly salary for Salary Range 11 (assigned to the position of Insurance Licensing Clerk) was \$384. Today the entry level for SR 11 is \$642 per month, an increase of over 67 per cent. The costs of employee fringe benefits, postage, paper for forms and records, envelopes, etc. have increased similarly.

In general the bill proposes to increase the license issuance fees set forth in Section 431-316(a), Hawaii Revised Statutes, from the present \$15.00 to \$20.00 or \$25.00. The issuance fee covers the initial processing of the application, setting up the permanent history cards and files, and preparing the license. The lower fee proposed for certain licenses takes into account the fact that these licenses require less staff time and supplies. More substantial increases are proposed for the original issuance of a Certificate of Authority to an insurance company (from \$150 to \$300) and for the application for organization of a domestic insurer (from \$150 to \$500). This reflects the substantially greater staff time required. It should be noted that the issuance fee is charged only for the original license or certificate and is not a recurring charge.

The present examination fees are \$4 and \$37.50 for each regularly scheduled and each specially scheduled examination, respectively. The bill proposes that the insurance commissioner be authorized to establish these fees by regulation to facilitate more timely

fee revisions. Using a professional testing service is currently under study and may require examination fee revisions which cannot be projected at this time. Another factor is the substantial increase in examination registrations during the past several years. Limited space available in the Kamamalu Building requires multiple locations for some examinations which in turn increases staff costs for proctoring and making special arrangements. It is felt that the Hawaii Administrative Procedure Act will provide an adequate industry input in the various aspects of the examination qualification process including the establishing of fees.

All insurance licenses are charged an annual service fee to cover all transactions on behalf of the licensee, except the qualification examinations. Additional or transfer appointments, changes of business location, extension or renewal of license, etc. are included in the service fee. The variations in the proposed increases reflect the volume and complexities usually involved in servicing the different categories of licensees.

The proposed fee increase, other than the examination fees, will produce an estimated total increase in revenue of approximately \$130,000, based on the 1974-1975 volume of transactions.

Your Committee finds that the fee increases are reasonable in light of today's costs and that the resulting charges will not place an undue burden on any category of licensee.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1839-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 258-76      Judiciary on S.B. No. 2010-76

The purpose of this bill is to provide funds for the continuation of the Hawaii Legal Services Project of the Legal Aid Society of Hawaii.

Your Committee finds that the Legal Aid Society of Hawaii provides needed legal services to a substantial number of people in this State who could not otherwise obtain such legal services. Therefore, your Committee supports the continuation of the Hawaii Legal Service Project of the Legal Aid Society of Hawaii.

Your Committee amended this bill by providing that if any Federal agency or department should grant funds to the Legal Aid Society, the Legal Aid Society shall reimburse the State of Hawaii in a like amount.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2010-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto, as S.B. No. 2010-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 259-76      Judiciary on S.B. No. 2440-76

The purpose of this bill is to compensate Mrs. Thelma Lindsay for services rendered at the Waimea Day Care Center during the months of September, October, and November, 1975.

Mrs. Lindsay provided services to children covered under Act IV, lessees of Hawaiian Homes Lands, and to other children of Hawaiian ancestry, during the abovementioned months.

Due to a misunderstanding, Mrs. Lindsay did not submit a bid for contractual services to the Department of Education as had been requested at an earlier time. She continued to provide services to said Department as she had done in the past. Said Department informed her that she could not be compensated for her services because there was no contract.

The reimbursement figures are as follows:

3 Act IV students @ \$75.00/mo. for 3 mos.	=	\$	675.00
14 nonlessee students @ \$37.50/mo. x 3 mos.	=		<u>1575.00</u>
		\$	2250.00

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2440-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 260-76 Judiciary on S.B. No. 2548-76

The purpose of this bill is to provide funds for the development of a master plan for the criminally insane.

Testimony was taken from various agencies and groups who strongly favored the bill, and your Committee is in accord with their sentiments.

Your Committee amended the bill by inserting the amount of \$25,000 in the appropriate section.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2548-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2548-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 261-76 Health on S.B. No. 177

The purpose of this bill as originally drafted was to provide for the reduction of the penalty for the knowing and unlawful possession of marijuana (*cannabis sativa*) of less than one ounce from a petty misdemeanor to a violation in Chapter 713 of the Hawaii Revised Statutes.

Because of the great interest in S.B. No. 177, your Committee on Health held public hearings on this subject in 1975 and 1976 and finds that the passage of S.B. No. 177 without major revisions would be unwarranted.

Your Committee recognizes that the decriminalization measure of S.B. No. 177 may be a logical step in view of apparent usage of marijuana on a large scale throughout the State, but knowledgeable community leaders stepped forward to testify that because of the lack of governmental control over the production and refinement of marijuana, the public health is threatened by dangerous additives, impurities and outright substitutions that can occur.

Your Committee also finds that there is no present provision in the law that allows the use of marijuana for medicinal purposes and that even if a medical doctor prescribes its use, a readily available, refined certified source is simply non-existent in the State. Yet, prestigious medical journals report that the use of marijuana can be a very effective humane drug for some serious cases of cancer.

In order to more effectively control the use of this widely-used and abused drug, your Committee on Health makes the following recommendations regarding marijuana which are incorporated in the amended bill:

1. A study by the Department of Health to:
  - a. suggest policy options and necessary amendments to the Hawaii Revised Statutes to deal with the issues related to the use of marijuana; and
  - b. develop standards for analyzing the contents of marijuana in order to ensure quality control for the protection of the populace from harmful additives; and
  - c. set up procedures for testing and analyzing marijuana for medical doctors and citizens seeking information regarding the content of less than one ounce of marijuana for personal, medicinal uses.
2. An integrated and comprehensive plan to be developed by the department of health from the study.
3. An appropriation to support the study and plan.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 177, as amended herein, and recommends that it pass Second Reading in the form attached

hereto as S.B. No. 177, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 262-76 Health on S.B. No. 2199-76

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$15,000 as one-fourth local matching for federal Social Security Title XX funds.

Your Committee on Health finds that this day activity program, run by the nonprofit corporation, Waimano Auxiliary, to be consistent with the State's policy of providing an array of services to the mentally retarded in Waimano and the community.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2199-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 263-76 Health on S.B. No. 2892-76

The purpose of this bill is to appropriate the sum of \$40,000, or so much thereof as may be necessary, to the department of health to contract with a genetics laboratory for maintenance of genetic diagnosis, counselling, treatment, management, and other ancillary services and care in order to prevent the inherited disorders of mental retardation.

Your Committee finds that the functions of the genetics laboratory are also able to establish the presence or absence of certain physical defects, thus facilitating the treatment of any disorders detected.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2892-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Henderson.

SCRep. 264-76 Housing and Hawaiian Homes on S.B. No. 1758-76

The purpose of this bill is to make improvements in all aspects of the housing development program conducted by the Hawaii housing authority pursuant to chapters 356 and 359, Hawaii Revised Statutes, and Act 105, Session Laws of Hawaii 1970. Act 105, codified as chapter 359G, Hawaii Revised Statutes, is found to have resulted in significant accomplishments in creation of housing for low- and moderate-income persons and families, but your Committee has determined, from testimony before it, that additional improvements would greatly benefit the program.

Your Committee has amended S.B. No. 1758-76, with particular substantive amendments as set out below. In addition, numerous style and language changes have been made to applicable sections of chapters 359 and 359G, in view of often stilted syntax and tortured construction.

Significant substantive amendments are as follows:

1. The executive secretary's position in the Hawaii housing authority is changed to that of executive director. Such a position is to be subject to control by the board of the Hawaii housing authority.
2. Provides that for rental projects constructed under chapter 359, rents may be set at a percentage of tenant income.
3. Permits issuance of taxable housing bonds, including refunding bonds, for development of housing projects under chapter 359.
4. Requires the Hawaii housing authority to employ, subject to civil service and for the housing development program authorized by chapter 359G, a staff consisting of a qualified development administrator, finance manager, development projects manager, sales manager, and housing program analyst.
5. Permits the Hawaii housing authority to contract with firms for development.

services, and exempts such contracts from a statutory two-year limitation where the contract is for the duration of a dwelling unit project.

6. Permits \$150,000,000 in general obligation bonds and short-term notes to be authorized for projects under chapter 359G, and to be deposited in the dwelling unit revolving fund. This amendment replaces existing authorizations of \$125,000,000.

7. Allows the authority to retain completed units in dwelling unit projects for lease or rental to nonprofit community organizations for community activity or facility purposes.

8. Repeals the existing "buy-back" restriction on sale or transfer of units in authority-assisted dwelling unit projects. Establishes a new buy-back provision, for a ten-year period after unit purchase, and eliminates the buy-back provision in the case of mortgage default.

9. Eliminates priorities on assignment of funds deposited in the dwelling unit revolving fund created under chapter 359G.

10. Permits the authority to establish rates on interim financing accorded to project developers under chapter 359G, and eliminates existing limits on such rates.

11. Allows the authority to guarantee the top twenty-five per cent of real property mortgage loans of housing developed under self-help programs.

12. Permits the authority to make loans and purchase mortgages at such rates as have been determined by the United States Internal Revenue Service as not making bonds financing such loans or purchases "arbitrage bonds".

13. Requires the authority to set rents or sales prices for commercial, industrial, and other uses at economic rents or sales prices, although rent or sale at cost is still to be provided to persons displaced by authority projects.

14. Mandates the establishment of a housing information system, and appropriates \$150,000 for this purpose.

15. Requires the authority to engage in housing design research and appropriates \$100,000 for this purpose.

16. Allows the issuance of general obligation bonds, with proceeds to be used to make loans to mortgage lenders to be used for new residential mortgages. Authorizes \$20,000,000 in bonds for this purpose, to be deposited in a mortgage loan revolving fund.

17. Requires the authority to develop a housing program strategy plan, and review projects requiring assistance through internal projects review panels.

18. Establishes a state land bank, with lands assigned to be used for housing projects. Creates a land bank revolving fund and authorizes a maximum of \$25,000,000 for this purpose. The land bank is to be used predominately for authority housing projects and gives explicit authorization for current Hawaii housing authority practice.

19. Appropriates \$3,000,000 for the rehabilitation, preservation, and beautification of Hawaii housing authority projects.

20. Authorizes issuance of \$20,000,000 in general obligation bonds, proceeds of which are to be deposited in the dwelling unit revolving fund created in chapter 359G.

21. Authorizes issuance of \$10,000,000 in general obligation bonds, proceeds of which are to be deposited in the special land bank revolving fund created by this Act.

22. Appropriates \$50,000 to establish the special land bank program.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 1758-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1758-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 265-76 Housing and Hawaiian Homes on S.B. No. 1760-76

The purpose of this bill is to make a number of amendments to Chapter 516, Hawaii Revised Statutes, to facilitate the ability of residential lessees to purchase the fee simple interest in their houselots, through the Hawaii Housing Authority.

Your Committee amended the bill to provide for compensation to lessors based on "raw land residual value". Raw land residual value is equal to the current fair market value of the developed lot, not including on-site improvements, less the current replacement cost of existing off-site improvements paid for by the lessee, less developer's overhead and profit and less bulk discount.

Your Committee finds that the raw land residual value more accurately establishes the value of residential lots, as based on actual land development practice, since the lessee has in the purchase of improvements paid for development costs incurred.

Your Committee further finds that the raw land residual value formula is relatively straightforward to apply. For example, this is how the formula would be applied in the case of a 7,500 square foot residual lot, which with all off-site improvements is valued at \$6.00 per square foot. Off-site improvements are assumed to be valued at \$1.50 per square foot, which is assumed to have been paid by the lessee:

(A) Current fair market value of the lot, not including on-site improvements:

$$7,500 \text{ sf} \times \$6.00/\text{sf} = \$45,000$$

less (B) current replacement cost of providing existing off-site improvements:

$$7,500 \text{ sf} \times \$1.50/\text{sf} = \$11,250$$

$$(\$45,000 - \$11,250 = \$33,750)$$

less (C) developer's overhead and profit equal to 25 per cent of (A):

$$\$45,000 \times .25 = \$11,250$$

$$(\$33,750 - \$11,250 = \$22,500)$$

less (D) bulk discount, equal to 25 per cent of the difference between (A) and the sum of (B) and (C):

$$\$45,000 - (\$11,250 + 11,250) \times .25 = \$5,625$$

$$(\$22,500 - 5,625 = \$16,875)$$

Thus, the raw land residual value of the sample lot would be \$16,875.

Your Committee has also amended the bill by making minor wording changes for clarity, and by amending prior appropriations, by providing \$1,500,000 for acquisition of a development tract, as the Hawaii Housing Authority is nearing completion of negotiations under Chapter 516 in at least one area.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 1760-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1760-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 266-76 Housing and Hawaiian Homes on S.B. No. 1916-76

The purpose of this bill is to establish a program of assistance to independent non-profit community planning and design centers which provide technical assistance and architectural, planning, design and financial services for community development to persons or groups not otherwise able to afford such services.

Testimony on the import and efficacy of existing centers was unanimously positive, and it was pointed out that the encouragement and expansion of the services provided by these centers to communities in need of assistance would greatly enhance the possibilities for creative, unique, and self-determined community design.

Your Committee amended the bill by placing this assistance program under the progressive neighborhoods program. The progressive neighborhoods program currently administers community improvement grants and other programs aimed specifically at assisting communities which have demonstrated need and have requested assistance of resources or expertise. This amendment would allow better coordination of available resources and the maximum utilization of PNP expertise in the selection of design centers most in need of the assistance offered by this bill. Your Committee has consequently amended this bill by placing this assistance program under the administration of the progressive neighborhoods program rather than the Hawaii Housing Authority and has included this measure within Chapter 362, HRS, to conform to this amendment.

In addition, your Committee has amended this bill to include an appropriation of \$150,000 for the purposes of this Act, and \$30,000 to establish one position within the Governor's Office for the purposes of coordinating grants and financial assistance to eligible community planning and design centers.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 1916-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1916-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 267-76 Housing and Hawaiian Homes on S.B. No. 2019-76

The purpose of this bill is to permit the Board of Land and Natural Resources to dispose of public lands at the nominal price of \$1 when such lands are to be used for the development of dwelling unit projects by the Hawaii Housing Authority.

The bill also requires that disposition of public lands to the Authority expressly grant the Authority the reversionary interest, in the case of leases, and the sale right of first refusal under the buy-back provision, in the case of sale in fee simple.

Your Committee has amended the bill to add style and non-substantive technical changes.

During the 1975 interim session, your Committee received testimony from the Authority stating that it was usually paying the Board of Land and Natural Resources the fair market value of the lands being conveyed. Your Committee recommends that this "rob Peter to pay Paul" syndrome be ended.

The Board of Land and Natural Resources has not objected to this proposal.

Your Committee is in accord with the intent and purpose of S.B. 2019-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2019-76, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 268-76 Housing and Hawaiian Homes on S.B. No. 2272-76

The purpose of this bill is to correct deficiencies in the horizontal property regime law which have led to construction and warranty problems, ambiguities in the horizontal property regimes and in condominium bylaws, problems with boards of directors and their control, problems with insurance of condominium common elements, and problems in the managing of the buildings.

The bill adds new sections and amends the present law as follows:

Sec. 514- Real estate commission, hearing, announcement. This new section would require the real estate commission to hold one public hearing each year.

Sec. 514- Projection of annual expenditures. This new section would require the developer to provide each prospective purchaser with a two-year estimate of annual expenditures and monthly cost per unit as well as an engineer's report on the useful life of structural elements.

Sec. 514-7 This section would be amended to require that each owner pay on demand all costs and expenses due the association, and that the manager and director comply with and enforce the provisions of this chapter and the bylaws and that failure to do so would be grounds for a civil action, and if successful the owner or association can recover costs and attorney fees.

Sec. 514-10 This section would be amended to allow that common expenses be charged to owners other than in proportion to their common interest and require that charges related to limited common elements be apportioned according to the use of such owners.

Sec. 514-11 This section would be amended to require that the declaration contain provisions, if any, for incremental development, or a provision for approval of same by a two-thirds majority of the association.

Sec. 514-15 This section would be amended to require that the final report include a projection of annual expenditures as in section 514- , and a parking plan.

Sec. 514-19 This section would be amended to require that existing bylaws conform to section 514-20 and any amendments thereto within six months of their approval by the legislature.

Sec. 514-20 This section would be amended to change the necessary number of owners required to amend the bylaws from seventy-five per cent to two-thirds; prohibit directors from casting proxies at association meetings on any issue in which they have a conflict of interest; provide that no more than one-half of the members of the board of directors shall be employees, agents, officers, or partners of the same corporation, partnership or business entity; provide that no member of the board shall serve more than six consecutive years; provide that no resident manager of a condominium or officers or employees thereof or an affiliate thereof may serve on the board of directors, or as president or treasurer of the board during a period of two years following the first meeting of the association; provide that the board shall meet at least semi-annually; provide that at least two board meetings a year shall be open to association members; provide that board of directors may be removed only by majority vote except in the case of prolonged unexcused absence in which case that member may be removed by a majority vote of the board; provide that notice of association meetings shall be sent and shall contain certain specified information; provide that a proxy form shall contain certain specified items; provide that solicitation of proxies shall be at the time and expense of the solicitor; provide that owner may change his parking stalls; provide that board members shall be indemnified and that the board of directors shall purchase liability insurance; provide that three bids shall be solicited for contracts in excess of \$500; provide that management contracts shall be awarded after the solicitation of three bids; provide that an accurate list of membership of the association of apartment owners shall be kept and made available; require that owners be provided with a written summary of insurance carried by the association; require the purchase of insurance which covers the common elements; provide that the directors shall be responsible for the enforcement of the bylaws and declaration; provide that all association meetings be conducted in accordance with Robert's Rules of Order; require that association mailings not contain commercial advertising or other unrelated items; require that a change of usage of any part of the condominium require two-thirds approval; require that the board of directors publish a newsletter twice a year; and provide that the members of the association may require a yearly audit of the association's books.

Sec. 514-20.5 This section would be amended to establish qualifications for a manager or managing agent, require that the first manager of the condominium be approved at the association's first meeting, limit his initial contract to six months, require that his identity be disclosed to the association prior to its first meeting and limit his power in contracting to affiliates or employees of the developer or managing agent.

Sec. 514-21 This section would be amended to require that all records be maintained at the address of the project.

Sec. 514-26 This section would be amended to provide that only the board of directors be responsible for the obtaining of insurance.

Sec. 514-26.5 This section would be amended to require that a detailed warranty run from the date of initial occupancy and that the developer obtain a release from each apartment owner and from the board of directors upon the expiration of the warranty.

Sec. 514-34 This section would be amended to require that a projection of annual expenditures be included in the public report.

Sec. 514-52 This section would be amended to provide that the real estate commission may establish supplemental rules and regulations governing a horizontal property regime.

After hearing testimony and upon consideration of this bill, your Committee has amended this bill as follows:



In order to deal realistically with inflation and the rising costs of goods and services the two-year projection requirements have been reduced to one year, and in order that these projection requirements do not prove to be a burden on the developer and ultimately upon the owner, the report by an engineer on the structural elements, supporting and mechanical systems has been deleted in each section in which it occurred.

Sec. 514- Civil penalty has been incorporated into section 514-46.

In order to conform to the intent of the section the word "subsequent" in Sec. 514-Projection of annual expenditures has been amended to read "prior".

Because of the resource available through section 514-46 and the foreseeable complications which may arise through the bringing of such actions, the sentence in section 514-7 providing for the bringing of action against a manager, managing agent, or board of directors has been deleted.

In that commercial areas in a condominium are already legally defined as apartments, the amendment to section 514-8 has been deleted.

In order that a large number of people do not become unnecessarily disenfranchised, the words "or employee" and "of an affiliate thereof" have been deleted from section 514-20(17) and (18).

In order to insure the possibility of explanation or rebuttal, section 514-20(20) has been amended to provide that a director about to be removed by the board shall receive due notification.

In order that the association meeting maintain a reasonable degree of flexibility, the word "specific" has been deleted from section 514-20(22).

In that having to amend the declaration may be prohibitively expensive, section 514-20(25) is amended to replace "amendment to the declaration" with "exchange deed".

In that such liability insurance may be difficult to obtain, the words "if available" are added to section 514-20(26).

In that it may prove difficult and in some cases impossible to obtain bids on expenditures of \$500, that figure in section 514-20(27) has been replaced with \$1,000.

In order to insure that association meetings are held within the State, section 514-20(38) has been included in this section.

In that ten per cent is high for such an escrow fund, and in that the costs of such funds may be passed on to the consumer the "ten" in section 514-26 is amended to read "one".

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2272-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2272-76, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 269-76 Housing and Hawaiian Homes on S.B. No. 2394-76

The purpose of this bill is to set up a means of organizing development resources for creation of balanced residential and mixed use communities in neighborhoods of the State with substantial potential for improved community development.

Your Committee has extensively amended this bill to establish a Hawaii Community Development Corporation to carry out the purposes of the bill. The corporation is created as a corporate governmental body of the State, with comprehensive powers to plan and implement a community development program in areas designated by the legislature as community development districts. The corporation established is permitted to buy, sell, lease, or otherwise dispose of lands; develop projects on its own, or in cooperation with other public agencies, or in cooperation with private businesses, firms, landowners, or developers.

Three hundred million dollars is established as the maximum limit in outstanding issues of bonds for this program.

The Kakaako area of Honolulu is designated as the first community development district to be planned and redeveloped by the Hawaii community development corporation.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2394-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2394-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 270-76 (Majority) Housing and Hawaiian Homes on S.B. No. 2492-76

The purpose of this bill is to provide a real property tax credit of 100% the first year, 75% the second year, 50% the third year, and 25% the fourth year, for purchasers of real property, not exceeding the purchase price of \$75,000, who have never purchased or owned real property before and who shall be owner occupants.

Your Committee finds that such tax credit would ease the financial burden upon those purchasing homes for the first time thereby encouraging home ownership as is consistent with state policy.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2492-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee. Senator Anderson did not concur.

SCRep. 271-76 Housing and Hawaiian Homes on S.B. No. 2528-76

The purpose of this bill is to provide native Hawaiians an exemption from all real property taxes assessed upon the value of residential lands leased pursuant to the Hawaiian Homes Commission Act of 1920, as amended. The bill provides that the residential improvements on such lease shall be assessed in the usual manner. Land leased for non-residential purposes does not qualify under the bill.

Your Committee finds that lessees, not able to mortgage, lease, or sell the land, have no equity in the land and thus should not be taxed on the value of such land.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2528-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 272-76 Housing and Hawaiian Homes on S.B. No. 2551-76

The purpose of this bill is to appropriate the sum of \$300,000 to Alu Like, Inc. as State matching funds with federal financial assistance for Native American Programs.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2551-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 273-76 Housing and Hawaiian Homes on S.B. No. 2577-76

The purpose of this bill is to appropriate the sum of \$225,000, for the construction of the Kohala-Hamakua Houselots, in the Kohala-Hamakua area, Hawaii.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2577-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 274-76 Housing and Hawaiian Homes on S.B. No. 2602-76

The purpose of this bill is to exempt from income taxation sales of developed single-family residential land, where such sales are made by organizations exempt under section

501(c)(3) or treated as an estate or trust under Subchapter J of the Internal Revenue Code, and where sales are made to lessees of such residential lands.

Your Committee finds that such sales should be treated as involuntary conversion of property, and not as sales of property in the ordinary course of business, since such sales generally take place only pursuant to the threat or exercise of eminent domain by the Hawaii housing authority under Chapter 516, Hawaii Revised Statutes. Due to the important public purposes served by Chapter 516, your Committee determines that taxation should not be a barrier to increasing fee simple home ownership in the State.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2602-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 275-76 Housing and Hawaiian Homes on S.B. No. 2603-76

The purpose of this bill is to establish within the Office of the Governor a Council for Housing and Construction Industry.

Your Committee finds that with the overlapping jurisdictions of the State, county, and federal housing programs with the accompanying myriad of codes and regulations, and with the rapid advances and complications of housing technology, the establishment of a body with the necessary expertise, perspective and objectivity to which the responsibility of periodic examination of existing housing needs and programs could be delegated, and which could investigate and recommend various means of potentially lowering the costs and improving the quality of housing in Hawaii, may be necessary.

The proposed commission, composed of twenty-four members representing the administration the legislature, the county governments, and the various elements of the housing and construction industry, would survey the statewide needs for housing and suggest means of overcoming difficulties in meeting these needs through an examination of the governmental structure, activities and strictures, as they relate to housing. In addition the commission would provide research and analysis in the area of innovative building materials, analyze the existing mortgage financing structure and recommend means to help assure the maintenance of a viable market, establish a clearing house of information for the housing and construction industry, report its findings and activities in an annual report to the governor and legislature, and recommend specific administrative changes and legislative proposals.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2603-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 276-76 Housing and Hawaiian Homes on S.B. No. 2680-76

The purpose of this bill is to appropriate the sum of \$350,000 to the Department of Land and Natural Resources for the construction of the Waiakea Houselots Development.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2680-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 277-76 Housing and Hawaiian Homes on S.B. No. 2748-76

The purpose of this bill is to provide an equitable amount of money to the Hawaiian Homes Commission for educational projects directed primarily to the educational improvement of the children of Hawaiian Homes lessees at the preschool and elementary level through the appropriation by the legislature of a sum equal to fifty percent of the annual average amount spent per child educated times the number of lessees' children of school age, less whatever is in the Additional Receipts-Development Fund set aside for educational purposes.

The Additional Receipts-Development Funds has not generated enough income to meet the educational needs of the children of Hawaiian Homes lessees. As the cost of education rises, and as more homes are made available on Hawaiian Home Lands, the

amount of money available for educational projects should also increase incrementally.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2748-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 278-76      Housing and Hawaiian Homes on S.B. No. 2886-76

The purpose of this bill is to clarify the intent of section 514-16, allow minor changes in building plans subject to the approval of the county building permit officer, and allow each purchaser of a unit to make a determination as to whether he wants to cancel his purchase contract prior to his execution of receipt for the final report.

Testimony on this bill noted that the bill basically clarifies what in actual practice is being done at the present time.

Your Committee has amended this bill to include a requirement that the purchaser execute and return the receipt for the final report within one year and ninety days. This is to insure that a hesitant purchaser who had entered into a contract to purchase under a preliminary report could not indefinitely refuse to execute the receipt for the final report and thereby indefinitely prolong the period that he has to exercise his option to rescind the contract.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2886-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2886-76, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 279-76      Housing and Hawaiian Homes on S.B. No. 2898-76

The purpose of this bill is to amend section 519-2, Hawaii Revised Statutes, to make clear that the lease renegotiation provisions of that section apply only to residential houselots occupied or permitted to be occupied by a single-family residence. Other minor language changes are made to the section in the interests of greater clarity.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 2898-76 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 280-76      Transportation on S.B. No. 333

The purpose of this bill is to delete the existing one year limitation on the State's claim for any deficiency due on abandoned vessels disposed of by the Department, to authorize the Department to collect for all expenses incident to taking the vessel into custody and disposal and to deposit the funds derived from the sale of abandoned vessels into the boating special fund instead of the general fund.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 333 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 281-76      Transportation on S.B. No. 1853-76

The purpose of this bill is to amend the definition of "bicycle" to include motorized bicycles, "MOPED"; to set the minimum age of operating a bicycle equipped with a motor to fifteen years of age; to clarify the right of riding on roadways and bicycle paths; and to define the safety requirements of a bicycle equipped with a motor.

Your Committee on Transportation adopted the recommendation of Dennis Saiki, Hawaii moped Bicycle Association by amending Section 4 (c) of this bill so that the state and counties may have the option as they find it necessary to post certain of those bike ways in the county to prevent bicycles with motors from using them.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1853-76 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1853-76, S.D. 1. and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 282-76 Transportation on S.B. No. 1878-76

The purpose of this bill is to relieve the condominium and apartment owners of their present intolerable burden created by trespassers improperly and illegally parking their vehicles in private and reserved stalls belonging to the condominium and apartment owners.

This bill will eliminate from Sec. 290-11 the requirement that the property owner wait for 24 hours before being allowed to have towed away a trespassing vehicle.

In addition, this bill will create the crime of "criminal trespass of motor vehicle" which will allow police officers called to the scene of such a trespass to arrest the trespassing vehicle driver and provide the legal mechanism to sanction the towaway.

Your Committee finds from unanimous and vociferous public support of this measure that this bill will relieve an untenable situation that presently exists in this area.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1878-76 and recommends it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 283-76 Transportation on S.B. No. 1944-76

The purpose of this bill is to appropriate money, for small boat harbors in the County of Hawaii.

Your Committee on Transportation has amended Section 1 of the bill by deleting the phrase "general fund" and by adding the phrase "Harbor Special Fund". It is also recommended that the appropriation for small boat harbors in the County of Hawaii include the Waialoa Estuary Complex. Your Committee has also amended the bill to insert the sum of \$250,000 in the appropriation portion of the bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. 1944-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 1944-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 284-76 Transportation on S.B. No. 2814-76

The purpose of this bill is to appropriate \$200,000, or so much thereof as may be necessary for incremental resurfacing of Kamehameha III highway toward east end of Molokai, County of Maui.

A typographical error has been amended; changing Kamehameha III to Kamehameha V.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2814-76, S.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 285-76 Transportation on S.B. No. 2919-76

The purpose of this bill is to provide for public acquisition and ownership of hydrofoil terminals constructed in state harbors in the State of Hawaii.

Your Committee finds that there is an inequity in the terminal facilities provided for public carriers in this state. The air terminals which are operated by Hawaiian and Aloha

airlines are owned by the State of Hawaii, and provided to the two airlines on a certain fee arrangement. Hydrofoil terminals in Honolulu, Nawiliwili, Kauai, Kona, Hawaii and Maalea, Maui are leased to the carrier and the carrier has been required to provide all improvements at each location.

To make this situation equitable and to treat these public passenger carriers the same, it would be necessary to acquire the improvements which have been constructed by the hydrofoil carrier at its various landing ports. The Director of Transportation has indicated that a rough study by the department reflects an approximate cost of \$2,800,000 for the acquisition of these improvements and this bill is amended to reflect the acquisition of that sum.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2919-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 2919-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRRep. 286-76 Health on S.B. No. 2709-76

The purpose of this bill is to amend certain portions of Chapter 334 of the Hawaii Revised Statutes relating to "Mental Health, Mental Illness, Drug Addiction, and Alcoholism." This action has been made necessary by the February 24, 1976, U.S. District Court decision which declared unconstitutional Sections 334-51 (a)(2) and (5), 334-53, 334-54 (f), 334-71 (a), and 334-73. In addition, Sections 334-76, 334-81 and 334-84 were found in need of revision. Judge Samuel P. King stated that these sections, "as written and as applied, are in violation of the Due Process Clause of the Fourteenth Amendment."

Your Committee on Health has found that other recent State, Federal and Supreme Court decisions have required clarification of procedures to conform to due process requirements for involuntary civil commitment.

#### THE STANDARD OF DANGEROUSNESS

Your Committee on Health emphasizes that these changes in the law relate to nonemergency, nonconsensual commitment. The bill does not deal with questions of mental illness and criminal commitment.

Your Committee on Health reports that the standards of commitment proposed in S.B. No. 2709-76 provide that the State may not legitimately restrict a person's freedom vis-a-vis commitment unless the person is "mentally disordered" and "dangerous to himself or others". The mentally disordered person does not include one whose behavior is merely different or anti-social as the U.S. Supreme Court in O'Connor v. Donaldson (1975) stated "mere public intolerance or animosity cannot constitutionally justify the deprivation of a person's physical liberty." The requirement of dangerousness to self or to others to justify a compelling State interest to deprive liberty is fundamental. Physical injury and possibly emotional injury to others, and physical injury and discernible physical neglect may warrant a finding of dangerousness.

#### MINIMAL PROCEDURAL SAFEGUARDS

In the February 24, 1976, ruling on the case of Suzuki v. Quisenberry Judge King stated: "In my opinion, due process in connection with the nonemergency nonconsensual commitment of persons pursuant to mental health laws requires that the person sought to be committed receive at a minimum the following procedural safeguards:

- "(A) Adequate prior notice.
- (B) Prior hearing before a neutral judicial officer.
- (C) The right to effective assistance of counsel.
- (D) The right to be present at the hearing.
- (E) The right to cross-examine witnesses and to offer evidence.
- (F) Adherence to the rules of evidence applicable in criminal cases.
- (G) The right to assert the privilege against self-incrimination.

- (H) Proof beyond a reasonable doubt.
- (I) A consideration of less restrictive alternatives.
- (J) A record of the proceedings and written findings of fact.
- (K) Appellate review.
- (L) Periodic redeterminations of the basis for confinement."

#### THE POWERS OF GOVERNMENTAL BODIES AND PROFESSIONS UNDER S.B. No. 2709-76

The Department of Health shall regulate and license psychiatric facilities, special treatment facilities, social rehabilitation residential programs; educate their staff and the public, and provide treatment services to mentally disordered persons or persons suffering substance abuse.

The police officer may take someone to the hospital:

- a. in an emergency situation where he has probable cause to believe the person is mentally disordered and committing a crime or the person is likely to cause immediate serious damage, or
- b. upon an emergency certificate of a physician, or
- c. when a resident of a facility has escaped from the facility.

The examining psychiatrist or psychologist is a licensed psychiatrist or licensed psychologist who is either employed by the Family Court or court appointed to examine a person alleged to be mentally disordered and dangerous to himself or others. He shall report his conclusions to the Family Court and may also file a petition with the court for involuntary commitment, which shall not exceed 90 days.

The Family Court will have the authority to:

- a. determine if a person should be committed involuntarily if it is for more than 48-hours emergency admission,
- b. order hospitalization as a last resort for 90 days only after evidence beyond a reasonable doubt that all least restrictive alternatives have been sought and are unsuitable,
- c. order an investigation if probable cause exists that a person is allegedly mentally disordered and dangerous to himself or others, and the person may request a hearing to determine if the investigation is necessary,
- d. make determinations in all cases involving a minor, except for emergency admissions,
- e. make a determination if a person should be continually committed on a voluntary basis at the end of the 90-day period allowed for the initial voluntary period of voluntary admission.

The administrator of a psychiatric facility or his deputy:

- a. may admit anyone in an emergency situation who is alleged to be mentally disordered and dangerous to himself or others and may detain that person for 48 hours,
- b. may make a petition to Family Court for longer period of involuntary commitment,
- c. may admit someone for voluntary treatment,
- d. may petition for changes of a patient's civil rights,
- e. may transfer patients after administrative hearing, and
- f. are entrusted with the treatment and protection of patients.

The licensed physician may make certificates to admit a patient to a hospital for emergencies, voluntary and involuntary commitment, treat the individual and offer testimony in court.

The Family Court social worker aids the family court in investigating allegations of persons with mental disorders and dangerousness, helps the court assemble the evidence, etc. and any other duties and responsibilities the court deems necessary.

#### THE RIGHTS AND SAFEGUARDS OF INDIVIDUALS UNDER S.B. No. 2709-76

The mentally disordered person is defined as one who suffers organic or emotional impairment amounting to an illness which substantially affects his behavior, feeling, thinking or judgment; and does not include mental retardation or abnormality manifested by repeated anti-social acts.

In addition to the findings of mental disorder, there must be a finding of dangerousness

to self or others to justify governmental intrusion for the purpose of protecting the health and safety of the individual and society.

Any person suffering from a mental disorder or from substance abuse may voluntarily admit himself to a hospital for no more than 90 days:

- a. The hospital administrator or his deputy must be satisfied that the person is capable of voluntary consent to admission,
- b. The person shall be informed of other less restrictive alternatives and that he has a duty to abide by all rules of the facility and may be discharged at any time by the facility and upon his own request,
- c. A stay for longer than 90 days will be permitted if the court determines that the person is still capable of granting voluntary consent.

A person may be taken to a psychiatric facility for emergency admission for a period not to exceed 48 hours if:

- a. An emergency situation exists,
- b. The person is committing a crime constituting a substantial danger to the person's own or others safety or property,
- c. The person is likely to cause immediate harm to himself and needs immediate treatment.

During the emergency admission period:

- a. The administrator of the psychiatric facility may admit the person,
- b. A licensed physician must treat the patient and make out a certificate,
- c. An examining psychiatrist or psychologist must make out a certificate and determine if the person is mentally ill and dangerous to himself or others and determine if the person should be confined for the full 48 hours or be confined beyond 48 hours. If the latter is the case, either he or the administrator of the psychiatric facility may petition the court for a judicial hearing,
- d. The person's parents, next of kin or spouse shall be contacted,
- e. The person has a right against self-incrimination and to be informed that anything he says may be used against him in a judicial proceeding.

The petition for the judicial hearing must be filed in court before the expiration of the 48 hours and a hearing must be scheduled within 5 days. The petition shall include the application and two certificates which shall be served on the patient and his family.

During the judicial hearing the person has a right to:

- a. be represented by an attorney; to be present and participate,
- b. have a guardian appointed, and
- c. have a right against the use as evidence of involuntarily made self-incriminating statements,
- d. examine all medical records through his attorney and/or guardian,
- e. have all rules of evidence apply, including right of cross-examination and confrontation of all witnesses,
- f. have evidence of medication affecting his capacity to participate and comprehend the proceedings,
- g. investigation of all least restrictive alternatives and hospitalization as a last resort after evidence beyond a reasonable doubt that the person is mentally disordered and dangerous to himself or others,
- h. commitment for no more than 90 days.

The person has a right to a hearing when there is a court ordered investigation. A person committed to a psychiatric facility maintains all of his civil rights, unless specifically ordered by the court for 90 days at a time. Finally, any transfers to another circuit or within a facility resulting in greater limitation of freedom shall be only after an administrative hearing pursuant to Chapter 91.

Your Committee on Health has amended S.B. No. 2709-76 in no substantive matters. Due to the anticipation of Judge King's recent decision and the necessity of introducing the bill prior to the cut-off date for new legislation, your Committee on Health has found it necessary to thoroughly proof the bill as submitted and make changes regarding the bracketing of repealed material, underscoring of new material and typing. Changes that relate to wording are as follows:

- a. On page 19, line 23, the words "and notice of hearing" are added between the words "petition" and "must".



- b. On page 20, line 7 and 8, the words "for the purposes of seeking the least restrictive alternatives" are deleted.
- c. On page 20, after subsection (c), a new subsection is added which reads, "Notice of hearing shall state the date, time, place of hearing, a clear statement of the purpose of the proceedings and of possible consequences to the subject; and a statement of the legal standard upon which commitment is authorized."
- d. On page 20, line 19, the words "and notice" are added between the words "petition" and "shall".
- e. On page 21, line 18, the words "and participate" are added between the words "present" and "at".
- f. On page 22, line 4, after the words "shall not be used" the phrase "unless the patient voluntarily waived his privilege against self-incrimination, knowing the consequences of such waiver" are added.
- g. On page 22, line 8, the words, "unequivocal, clear and convincing evidence" are replaced by "evidence beyond a reasonable doubt".
- h. On page 22, line 14, "evidence beyond a reasonable doubt" again replaced "unequivocal, clear and convincing evidence".
- i. On page 22, line 19, the sentence "There shall be a record of the proceedings and written finds by the court" is added.
- j. On page 25, starting on line 8, it should read as follows: "No commitment of a person to a psychiatric facility without the state shall constitute sufficient legal authority for the apprehension, transportation, and detention of the person unless such person is being admitted pursuant to this chapter."
- k. On page 27, line 11, the word "restrictive" is substituted for "attractive".

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2709-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2709-76, S.D. 1, and be referred to the Judiciary Committee.

Signed by all members of the Committee except Senator Henderson.

SCRep. 287-76 Energy/Natural Resources on S.B. No. 2467-76

The purpose of this bill is to encourage the conservation of energy by providing tax incentives for alternate energy improvements.

Your Committee has amended this bill by converting this short form bill to a long form to provide energy tax incentives as follows:

#### Income Tax Incentives

The bill would allow an income tax credit for individual and corporate resident taxpayers for 10 per cent of the cost of a solar energy device. The tax credit is to be claimed against the net income tax liability for the year in which the solar energy device was installed provided the solar energy device was erected and placed in service after December 31, 1974 but before December 31, 1978. The bill further provides that if the credit exceeds the tax liability, the excess may be applied to the taxpayer's liabilities for subsequent years until exhausted.

#### Property Tax Exemption

The bill provides a real property tax exemption for all property actually used as a solar energy device, not including a building or its structural components, except where the solar device is incorporated into the building and then only that part of the building necessary to such improvement. Property tax exemption shall be granted for solar devices which are erected and placed in service after June 30, 1976 but before December 31, 1978.

With respect to both tax incentives, provision is made for the administration thereof by the Director of Taxation.

Your Committee on Energy and Natural Resources is in accord with the intent and purpose of S.B. No. 2467-76, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2467-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Nishimura.

SCRep. 288-76 Ecology, Environment and Recreation on S.B. No. 1823-76

The purpose of this bill is to amend chapter 195D, Hawaii Revised Statutes, in order

to qualify the State of Hawaii to participate in the benefits of Public Law 93-205 (Endangered Species Act of 1973).

The 1975 legislature enacted into law Act 65 providing statutory authority to the Department of Land and Natural Resources for the establishment of programs for the preservation and conservation of all of Hawaii's unique fauna and flora, particularly threatened and endangered species of plant and animal life and providing for the full participation by the State of Hawaii in cooperative programs with the federal government as provided for in Public Law 93-205. Entry into such an agreement would preclude federal preemption of Hawaii's authority to regulate the "taking" of resident threatened or endangered fish or wildlife and make Hawaii eligible to receive federal grant-in-aid funds up to two-thirds of approved program costs.

Your Committee finds that upon review of Act 65, the Office of Endangered Species, U.S. Fish and Wildlife Service, determined that such Act does not fully satisfy the provisions of the federal act and therefore it in itself did not qualify Hawaii to enter into a cooperative agreement with the federal government pursuant to the federal act.

The administration introduced this bill in order to rectify the foregoing deficiency and thereby qualify Hawaii to participate in the benefits of the federal act.

In testifying at the public hearing on this bill the Department of Land and Natural Resources recommended the following amendments:

1. That the comma appearing between the words "ecology" and "population" on line 3 of page 3 be underlined as this comma does not appear in the existing statute.
2. That the words "by taking" on line 22 of page 4 be deleted and the words "shall take" be substituted therefor.
3. That the words "or threatened" be inserted between the word "endangered" and the word "species" on line 2 of page 5.

Your Committee has made additional amendments to this bill to correct inconsistencies within the Act. Your Committee has amended the definition of "endangered species" to mean any species of wildlife or plant that has been determined to be an endangered species pursuant to the Federal Endangered Species Act or pursuant to chapter 195D, and has amended the definition of "threatened species" to mean any species of wildlife or plant that has been determined to be a threatened species pursuant to the Federal Endangered Species Act or pursuant to chapter 195D.

Your Committee has added three new definitions, "critical habitat", "commercial activity", and "industry or trade" to conform with definitions in the federal act and guidelines.

Your Committee has amended section 195D-4 (Prohibited Acts) to provide that subsection (e)(3) apply only to commercial activities. Commercial activities is intended to apply to those activities that would require a gross excise license. It is not intended to apply, for example, to an individual selling an heirloom acquired before the effective date of the Act.

The U.S. Fish and Wildlife Service has informed your Committee they have spoken with their counsel who informed them the proposed changes are acceptable under the federal act.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1823-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1823-76, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 289-76 Ecology, Environment and Recreation on S.B. No. 2092-76

The purpose of this bill is to eliminate possible multiple jurisdiction among county government agencies over the shoreline area. The problem actually is unique to the City and County of Honolulu, as the planning commissions of other counties are the responsible agencies. In Honolulu, however, there is a possibility that as many as three agencies could share jurisdiction.

The department of planning and economic development, in its testimony on the bill, pointed out that a better means of achieving this intent would be to amend Section 205-

31, Hawaii Revised Statutes, to redefine agency as the planning department of each county or such body as the county council may designate by ordinance. Because the title of this bill is specific, however, your Committee has amended the bill to provide language accomplishing the purpose in Section 205-35, Hawaii Revised Statutes.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2092-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2092-76, S.D. 1 and be referred to the Committee on Economic Development.

Signed by all members of the Committee.

SCRep. 290-76 Ecology, Environment and Recreation on S.B. No. 2314-76

The purpose of this bill is to provide for an appropriation not otherwise available from federal funds, to enable the County of Maui to comply with the Safe Drinking Water Act, Public Law 93-523.

Your Committee finds that the Federal Safe Drinking Water Act has a five-year timetable for implementation of additional and revised regulations. The first key event in this sequence is the National Interim Primary Drinking Water Regulations, which will take effect on June 24, 1977. All water suppliers shall provide potable water to the public that will not exceed the maximum physical-chemical-bacteriological-pesticide parameters of water quality and must report any deficiencies to the public.

Your Committee has incorporated into this bill, S.B. No. 2315-76, S.B. No. 2316-76, S.B. No. 2317-76 and S.B. No. 2344-76 (which also provided for the County of Hawaii), and has amended the bill to appropriate funds to each of the counties of the State for the purposes of the Act. All the counties have indicated to your Committee that they support the proposal that the department of health should be the expending agency, and the department of health has concurred. Your Committee therefore has further amended the bill to designate the department of health as the expending agency.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2314-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2314-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 291-76 Ecology, Environment and Recreation on S.B. No. 2907-76

The purpose of this bill is to appropriate \$100,000 for acquisition of land for expansion of Hauula playground.

The existing playground is a City and County of Honolulu project. Your Committee has amended the bill to reflect City and County matching fund participation on a 50-50 basis.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2907-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2907-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 292-76 (Majority) Ecology, Environment and Recreation on S.B. No. 2456-76

The purpose of this bill is to amend chapter 343, Hawaii Revised Statutes, to require that the public be informed before an action can be implemented, when a determination has been made that no environmental impact statement is required. This would be done in the bulletin regularly circulated by the Office of Environmental Quality Control.

At the public hearing on this bill the Office of Environmental Quality Control supported passage of this measure, stating that this provision is in keeping with the spirit and intent of chapter 343, Hawaii Revised Statutes. The Environmental Quality Commission stated that they would support the bill if "determinations" refers only to negative declarations and not to exempt determinations. This is your Committee's intent and your Committee has amended the bill accordingly to clarify this distinction.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2456-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2456-76, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee. Senators Ching, Hara and Soares did not concur.

SCRep. 293-76 (Majority) Ecology, Environment and Recreation on S.B. No. 2575-76

The purpose of this Bill is to enact legislation which shall be known and may be cited as the Hawaii Law for Mandatory Certification of Operating Personnel of Wastewater Treatment Plants.

Your Committee finds that such an Act will protect the public health, conserve and protect the water resources of the State, provide for the classifying of all public and private wastewater treatment plants, require examination of operating personnel, create a board of certification of Wastewater Treatment Plant Operators, prescribe powers and duties of the board, provide for the promulgation of rules and regulations, provide for reciprocal arrangements, and prescribe penalties for violation.

The Department of Public Works of the City and County of Honolulu, in testifying at a public hearing on this bill, stated that it favors passage of this Bill, as it will minimize the problems associated with improperly operated wastewater treatment plants. Thirty-eight other states have a mandatory certifying program for sewage treatment plant operators.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2575-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee. Senators George and Soares did not concur.

SCRep. 294-76 Ecology, Environment and Recreation on S.B. No. 2599-76

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$50,000 for development of a master plan to establish a beach park at Honomuni, Molokai, County of Maui.

Your Committee has amended the bill to provide for incremental acquisition of land for the beach park, as recommended in the testimony of the Department of Land and Natural Resources at the public hearing on this bill.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2599-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2599-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 295-76 Ecology, Environment and Recreation on S.B. No. 2909-76

The purpose of this bill is to provide for historic preservation, enabling the State to take a strong leadership position in protecting its own historic properties. The State would reserve the right of ownership and control of historic property located on lands or under waters owned or controlled by the State. New finds of historic places would be reported to the department of land and natural resources by other government agencies to allow for investigation and recording, preservation or salvage.

This bill amends the present statute which calls for a ninety day review period for historic properties, and would allow review to take place prior to the end of the ninety days. It also allows ordinary maintenance of privately owned sites without review when the repairs would not affect the historic character of the site.

The bill also allows the counties to undertake historic preservation programs, and extends the museum depository section to allow the State to deposit surplus objects of natural, botanical, ethnological, architectural, historical or archaeological value in all qualified museums in the State.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2909-76 and recommends that it pass Second Reading and be

referred to your Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 296-76 Ecology, Environment and Recreation on S.B. No. 3016-76

The purpose of this bill is to provide for a windward regional plan which will incorporate significant collaboration between citizens, the government and interested organizations, and will reflect the needs of communities within the windward region as well as the needs of the region as a whole.

It is your Committee's intent that the regional plan area initially encompass the area from Waihole-Waikane to Kahuku-Kawela, while the second phase will encompass the more urbanized section from Waimanalo to Waihole-Waikane, including Kailua and Kaneohe.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 3016-76 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 297-76 Ecology, Environment and Recreation on S.B. No. 3017-76

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$2,000,000 or so much thereof as may be necessary to the incremental acquisition of Malaekahana Beach property for the use and enjoyment by the people as a State park.

Your Committee finds that in drafting this bill three inadvertent typographical errors were made on page two. Your Committee has amended the bill to correct these errors.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 3017-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3017-76, S.D. 1, and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 298-76 (Majority) Transportation on S.B. No. 845

The purpose of this bill is to encourage private industry to participate in and help solve the State's water borne transportation problems by including in the exemption from use taxes those oceangoing vehicles used for goods transportation only from one point to another within the State.

Your Committee on Transportation finds that paragraph 7 of Section 238-1, HRS, now provides that the definition of the term "use" does not include the use of oceangoing vehicles for passenger or passenger and goods transportation from one point to another within the State as a probable utility as defined in Chapter 269. This definition appears to exclude from this exemption oceangoing vehicles for goods transportation only.

Your Committee on Transportation finds that the cost of the capital equipment needed for inter-island transportation is quite high. Without an exemption the value of the equipment is subject to a 4% use tax. This bill would broaden the current exemption and provide public utilities, which use vessels for transporting goods only, the same exemption as for those used for passenger and goods transportation. Your Committee believes that a failure to include such vessels would be discriminatory.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 845 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee. Senators Ching and Hara did not concur.

SCRep. 299-76 Health on S.B. No. 1815-76

The purpose of this bill is to amend Hawaii Revised Statutes to (1) change the title of Section 27-22 H.R.S., (2) change the number of committee members from seven to nine, and (3) make a technical change involving the transfer of the provisions relating to hospital administrators from Section 27-22 to Section 27-21.2, H.R.S.

Changing the title of the section makes it correspond to the preferred wording of "county hospital advisory committee" as contained in the body of the section. Deletion of the word "general" permits the committee to act in an advisory capacity to those hospitals which are not general hospitals.

Increasing the membership of the committee provides a broader base for advising the Director of Health, particularly regarding quality of medical care, medical equipment and technology. In testimony, Mr. George Yuen, Director of Department of Health, felt this advice would be of great assistance in their efforts to offer effective services, and in the assessment of and recommendations concerning new medical services and delivery system.

The present provisions for appointing hospital administrators are intermixed with management advisory committees and committee members in Section 27-22. The more appropriate location is in Section 27-21.2, H.R.S., which pertains to hospital personnel.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1815-76 and recommends that it pass Second Reading and be referred to the Committee on Human Resources.

Signed by all members of the Committee.

SCRep. 300-76 Health on S.B. No. 2895-76

The purpose of this Act is to convert the positions of County/ State hospital administrators and assistant administrators from civil service to non-civil service status. The bill also provides for a grandfather clause for those incumbents currently filling the affected positions.

When the county hospitals were transferred to the State on January 1, 1970, the hospital administrators of three major general hospitals, namely Hilo, Maui Memorial, and Kauai Veterans Memorial Hospitals, were exempt from Chapters 76 and 77, Hawaii Revised Statutes. In 1974 the Department of Health supported S.B. No. 1451 converting these positions to civil service status.

Your Committee finds the major argument for S.B. No. 2895-76 to be the increased managerial flexibility allowable under non-civil service status and not the argument that the compensation plan under civil service is too low to attract the best-qualified administrators.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2895-76 and recommends that it pass Second Reading and be referred to the Committee on Human Resources.

Signed by all members of the Committee.

SCRep. 301-76 Human Resources on S.B. No. 464

The purpose of this bill is to amend the Worker's Compensation law to give relief to persons who are totally and continuously disabled or are dependents entitled to benefits, and who are receiving less benefits than the law now allows. This bill would increase the amount of benefits to persons who were injured years ago or to their dependents to a level equal to the maximum weekly benefits as of the effective date of this bill. In the future, as the maximum weekly income benefits are increased by law, these persons will also be entitled to increase of their benefits rather than being frozen at an earlier and lower rate.

Your Committee finds that there are workers, who were totally and continuously disabled years ago who receive nothing or are receiving as little as \$75.00 per week. The maximum rate is now \$167.00 per week. Similarly, dependents of workers killed or totally disabled are receiving benefits which are wholly inadequate. Benefits fixed in the past may have been relevant then but with the passage of time, become totally inadequate to the needs of the workers or their dependents, unless there exists in the law a means of adjusting and increasing the benefits.

Your Committee has amended the title of the bill to be consistent with Act 41, Session Laws of Hawaii 1975 which changed all reference to "workmen's compensation" to read "workers' compensation". Your Committee has also amended the bill by inserting the word "less than" at the beginning of the third line of section (b)(2) to correct a typographical error.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 464, as amended in the form attached hereto as S.B. No. 464, S.D. 1, and recommends it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 302-76 Human Resources on S.B. No. 2328-76

The purpose of this bill is to extend for one additional year, the State Comprehensive and Employment program by using unexpended funds appropriated under Act 151 which deals with the State Program for the Unemployed.

Presently, with the more than 30,000 persons unemployed throughout the State, the jobs created under SCET will not lower the unemployment rate to any significant degree. However, the lapse of program funds on June 30, 1976 will result in a mass layoff on July 1, 1976 during a period of continuing high unemployment.

To minimize the impact of a mass layoff, an extension period and the authorization to use unexpended funds is necessary. Your Committee believes this bill will enable the department to phase out individuals into employment not supported by this Act on a planned basis to minimize the negative impact on the labor force at a time of high unemployment.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. 2328-76 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 303-76 Human Resources on S.B. No. 1816-76

The purpose of the bill is to amend various sections of Chapter 396, HRS, the Hawaii Occupational Safety and Health Law. The changes proposed are basically intended to clarify the state law; to conform it to the federal Occupational Safety and Health Act; to protect the department's employees from civil suits and criminal acts; to establish additional appeal rights for employees in discrimination and variance cases; and to make certain technical changes.

The state, in accordance with its agreement with the federal government under Section 18 of the Occupational Safety and Health Act, must maintain its basic legislation (Chapter 396), safety and health standards, and the administration and enforcement thereof, in a position of being "at least as effective" as the federal counterparts. Most of the changes proposed by the bill are technical amendments and additions of this nature, and the director of labor and industrial relations urges their adoption so that Hawaii may continue to exercise jurisdiction in the field of occupational safety and health.

The specific proposals for amendment of the Hawaii Occupational Safety and Health Law are:

1. Section 1 of the bill proposes a change in the definition of "director" to expressly permit the administrator of the Division of Occupational Safety and Health to act in the director's behalf as his designee; adds a definition of "Employee of the State."
2. Section 2 of the bill proposes a change in wording to emphasize the state's concern for all factors affecting a worker's safety and health on the job.
3. Section 3 proposes to add new language, stating explicitly that the department shall prescribe rules for the adoption, amendment, or repeal of standards and to provide guidelines and procedures for the exercise of the department's discretion in issuing emergency temporary standards and in granting variances from standards.
4. Section 4 proposes to add new language to protect employees of the state from being made parties in their individual capacities to civil actions arising from the performance of their duties under Chapter 396.
5. Sections 5, 6, 7, 8, and 9 propose adding the words "citation", "standard", "rule", and "regulation" in various places in order to conform Chapter 396 to federal requirements.
6. At the request of the department, the Committee has amended Section 5 of the original bill by adding language giving employees who may be injured from the department's

arbitrary and capricious failure to assure abatement of an imminent hazard the right to seek a writ of mandamus compelling the department to do so.

7. Section 6 proposes to add language to Section 396-6 to conform to the federal Act.

8. Section 7 proposes language to clarify the types of discrimination prohibited. At the request of the department, your Committee has also recommended that the section be amended by substituting the word "instituted" for the word "instituting" in the original bill to indicate that the protection of the law extends to employees who file complaints which do not result in enforcement by the department.

9. Section 8 also proposes new language to provide specifically for penalties for discrimination against employees for exercising their rights under the statute and to set forth penalties in addition to those stated in the penal code for criminal offenses committed against an employee of the state acting under Chapter 396. It also proposes to add specific requirements for posting notices or other documents issued by the director and to provide criminal penalties for repeated violations leading to the death of an employee.

10. Section 9 also proposes new language to clarify review procedures and provide additional appeal rights for employees.

11. Section 10 also proposes to add new language to establish that the Appeals Board may not consider cases in which an order of the director has already become final for failure to contest as provided by the statute.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1816-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1816-76, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 304-76 Human Resources on S.B. No. 2320-76

The purpose of the bill is to change the State and counties contribution from a fixed dollar amount to a 50% cost-sharing percentage of the total medical and dental plan premium cost.

Your Committee finds that at the present time the employees share of medical plan premium cost has risen significantly because of the concurrent increase in health care costs with the removal of price controls by the Federal Cost of Living Council in 1974 and to the present statutes which requires employees to pay the burden of all medical premium cost increases in excess of the government's contribution.

Your Committee also finds that when the Health Fund Law was established by the Legislature in 1961, the level of governmental contributions was set at almost 50% of the total Medical Plan premium and that in 1970, the Legislature again adjusted the contribution ratio to reflect a similar cost sharing ratio. It now appears that an improved percentage method of funding such contribution is warranted to maintain the approximate 50% cost-sharing level originally intended by prior Legislatures as opposed to the existing fixed dollar method of contribution.

Your Committee further finds that the bill in its present form, deletes the dental plan for children under age 19 of State and County employee-beneficiaries established by the Legislature in 1966. This inadvertent deletion of present employee benefits appears to be the result of restructuring the technical language of the Health Fund law.

In order to clarify the intent of the bill, your Committee has amended the bill as follows:

1. Section 1 has been rewritten to reflect:
  - a. the 50% contribution of the total medical plan premium which must be paid to the Health Fund by State and County governments for their respective employee-beneficiaries;
  - b. a provision that if both husband and wife are employee-beneficiaries, the monthly contribution would be that amount that would be only if one of them were an employee-beneficiary.
2. Section 2 relating to contributions by an employee-beneficiary was found to be



adequate. Your Committee has added the sum of \$4,243,400 to be expanded by the Department of Budget and Finance to implement this bill.

3. The effective date of this bill in Section 4 has been changed to July 1, 1976.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2320-76 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2320-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator R. Wong.

SCRep. 305-76 Human Resources on S.B. No. 2745-76

The purpose of this bill is to establish a State Employment and Training program, authorizing the Director to establish priorities designed to meet the employment needs of the unemployed and underemployed and develop a whole new cadre of skilled individuals through a training program.

This bill further provides an appropriation of \$12,000,000 to enable the program to establish approximately 1,300 participant positions for one year, including cost of salaries, fringe benefits and administrative costs. The Director may establish a subsidy and loan program to employers in private industry to encourage hiring and training of unemployed and underemployed individuals.

With the more than 30,000 persons unemployed throughout the State, the jobs created under the present State Comprehensive Employment and Training program will not lower the unemployment rate to any significant degree. However, the lapse of program funds on June 30, 1976 will result in a mass layoff on July 1, 1976 during a period of continuing high unemployment.

Your Committee believes that this bill will establish a State Employment Program which will be designed to meet the employment needs of the unemployed and underemployed residents of the State. Your Committee further believes that this bill may help to alleviate the problems of the unemployed and underemployed by developing public service employment opportunities, providing subsidies and loans to employers in private industry.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2745-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 306-76 Ecology, Environment and Recreation on S.B. No. 1981-76

The purpose of this bill is to appropriate funds out of the general revenues of the State of Hawaii for acquisition of private lands at Moanalua, Oahu for use as a state park.

Your Committee finds that this is an area of high density which is totally lacking in parks and open space for the recreational use and aesthetic enjoyment of its population. The bulk of the land is zoned conservation. The Department of Land and Natural Resources, in testifying at a public hearing on this bill, stated that there is ample justification for the acquisition of 1) the remnant of the crater rim for scenic geologic and wildlife values; and 2) the crater floor for open space and active and passive recreational uses.

Your Committee finds that a park which can be enjoyed by residents of the community as well as other residents of the State is an excellent use of conservation land.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1981-76, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Nishimura.

SCRep. 307-76 Ecology, Environment and Recreation on S.B. No. 2451-76

The purpose of the bill is to appropriate \$211,600 for construction of comfort stations, water lines, picnic facilities and the like on State land at Waialea, Oahu.

This land is under long term lease to the federal government for infantry training, but is used on weekends and holidays by members of the Hawaii Motorsports Association for motorcycle riding. The Hawaii Motorsports Association holds a revocable permit for this purpose from the Department of Land and Natural Resources.

Your Committee on Ecology, Environment and Recreation wishes to call attention to the fact that the Department of Land and Natural Resources has informed your Committee it has been indicated to them the State would be well advised to obtain in writing the agreement with the federal government in terms of the motorcycle park before money is expended for improvements.

Your Committee on Ecology, Environment and Recreation, however, is in accord with the intent and purpose of this bill and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Ching, Nishimura and George.

SCRep. 308-76 Ecology, Environment and Recreation on S.B. No. 2116-76

The purpose of this Bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary to supplement prior appropriations for the planning, property acquisition and development of Rainbow Bay Recreational Area and Park, at Aiea Bay, Pearl Harbor, Oahu.

The Department of Land and Natural Resources has informed your committee it has been indicated to them the State would be well advised to obtain in writing the agreement with the federal government before money is expended. It is your committee's understanding that the Navy is stating in writing that it "stands by its commitment to make the lands available for development of Rainbow Bay as described in the conceptual plan," and that "the lands will be leased to the State of Hawaii on a twenty-five year basis or other similar arrangement."

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2116-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Nishimura.

SCRep. 309-76 Higher Education on S.B. No. 612

The purpose of this bill is to provide the enlisted members of the Hawaii National Guard with tuition assistance for post secondary and vocational education at State educational institutions.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 612, S.D. 1, and recommends that it be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 310-76 Education on S.B. No. 2387-76

The purpose of this bill is to clearly fix responsibility and authority for the operation of the public school system on the executive branch of state government. The bill provides for amendments to the State Constitution whereby the superintendent of education shall be appointed by the governor with the advice and consent of the Senate and shall have control over the school system. The board of education and the district school advisory councils shall have advisory responsibilities for their respective jurisdictions.

Your Committee finds that the provisions currently in effect for the governance of public education facilitate the shifting of responsibility between the elected board of education and the elected governor to the point where accountability for decisions is difficult to fix. The board, which sets policy within the bounds allowed by law, appoints a superintendent to carry out its policies and lead the public school system. The superintendent however, must do all this through a department of education which is an executive unit responsible to the governor.

The new governance required by this constitutional amendment calls for a system whereby the governor, elected by and accountable to the people, appoints a superintendent with clear authority over the public school system, and with public participation to be

assured through the provision of district school advisory councils.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2387-76 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 311-76 (Majority) Transportation on S.B. No. 28

The purpose of this bill is to enact revenue sources which will help resolve the Highway Fund deficit and to eventually eliminate the Highway Fund.

Act 19 of the 1975 Legislature provided temporary relief by increasing the fuel tax rate to 8-1/2 cents per gallon effective May 1, 1975 to June 30, 1976. This temporary increase provided sufficient revenues to meet budgeted expenditures for only the current fiscal year 1975-76. For fiscal year 1976-77 budgeted expenditures authorized by Act 195, SLH will exceed revenues by approximately 10 million dollars. For the subsequent years, estimated expenditures will exceed estimated revenues by \$15 million in Fiscal Year 1977-78, \$21 million in Fiscal Year 1978-79, \$23 million in Fiscal Year 1979-80 and \$25 million in Fiscal Year 1980-81. The proposed 3-1/2 cents increase will generate approximately \$10 million per year, which will only be sufficient to meet anticipated deficit for fiscal year 1976-77, and also most of the anticipated deficit for fiscal year 1977-78. The State Regulation tax, effective January 1, 1978, and the vehicle engine size tax, though at this time preliminary in amount, will help resolve the highway fund deficit in the future years 1977 and 1978, if that fund is retained.

However, as proposed by Arthur Young and Company, the elimination of the highway fund appears mandatory. Additional study will be required in this area. In any event, the taxes proposed in this measure will provide the structure to meet highway funding in the future.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 28, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 28, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee. Senator Soares did not concur.

SCRep. 312-76 Education on S.B. No. 2546-76

Act 130, SLH 1970 established a pilot project for school health aides in our public schools.

The purpose of this bill is to establish the school health aide program on a permanent basis. Your Committee has found in testimony received in hearings, in visitations to schools, in findings in a report on the school health aide pilot project from the Legislative Auditor's Office, and in numerous direct requests from the public, a need for such direct health services to the students in our schools.

Your Committee has amended the bill to allow registered nurses to be employed as supervisors to the health aides and to place the program under the jurisdiction of the Department of Health.

Your Committee has further amended the bill to include the repeal of Act 130, SLH 1970; the authority under which the school health services pilot project originated.

Your Committee recommends that guidelines for the school health services project be established as follows:

- a) that there be one registered nurse per complex
- b) that there be one health aide per school
- c) that the Department of Health deploy their health aides and nurses in a manner that will allow for maximum usage of personnel
- d) that the employment of health aides and nurses be based on a 10-month period

The appropriation amount in this bill reflects expansion of this program to all public elementary schools by the end of school year 1977. The Department of Health is requested

to submit plans for the installation of this program into the secondary schools to the Ninth Legislature for complete installation of the program by the end of the 1977-79 biennium.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2546-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2546-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 313-76 Education on S.B. No. 2690-76

The purpose of this bill is to appropriate funds to be expended for the advancement of Hawaiian Music by the State Foundation on Culture and Arts.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2690-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 314-76 Education on S.B. No. 2692-76

The purpose of this bill is to appropriate funds for the continuation and support of the Hawaii Theatre Festival. The Festival is a cooperative project of the State of Hawaii, the State Foundation on Culture and the Arts, the City and County Department of Parks and Recreation, and the Hawaii Theatre Festival Steering Committee. The funds appropriated will make possible the presentation of the Second Annual Hawaii Theatre Festival at Ala Moana Park during the Summer of 1977.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2692-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 315-76 Education on S.B. No. 2701-76

The purpose of this bill is to authorize the Department of Education to establish a mechanism through which the resources of private language schools might be utilized as an important adjunct to the department's language skills programs. Funds appropriated are to be used to meet the operational needs of language schools and may be used to help defray the tuition of students.

The purpose of the amendment to the bill is to establish the sum appropriated: \$90,000.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2701-76 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2701-76, S.D. 1, and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 316-76 Education on S.B. No. 2761-76

The purpose of this bill is to appropriate funds for the establishment of a special education summer school program.

Your Committee has learned that the need for an offering of educational programs during the summer months to special education students is critical to the overall performance and achievement of these pupils. Your Committee has further learned that the Department of Education is presently working on the development of this program for submission for budgetary funding for the 1977/1978 biennium. The department has further indicated that they are prepared to begin special education summer sessions during the 1976 summer period. Because of the demonstrated need for the classes and because the department is prepared to offer them, your Committee has appropriated \$171,349 for summer classes in 1976, subject to some restrictive caveats.

It is the intent of the Committee that the pupil:teacher ratio be no greater than 15:1; that the department include this program in its budget request in the next biennium.

that this program might be offered on a continuing basis; that the department offer this program in as economical a way as is practicable; and that the tuition be equal to that charged for regular education summer programs. With regard to the economical operation of the program, the Committee recommends that in those areas where a few students within one school indicate an interest in a summer program the department consider consolidating classes within a school complex.

Because this is a new area, projections as to student response were difficult to ascertain. The \$171,349 figure is based upon a departmental projection of student attendance at approximately sixty percent of the total special education enrollment of 6,000 students at a cost of \$65.00 per student. Because of the tentativeness of the projection and the very specific purpose of the appropriation, the unencumbered funds will lapse at the end of the summer period, September 1, 1976.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2761-76 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2761-76, S.D. 1, and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 317-76 Education on S.B.No. 2819-76

The purpose of this bill is to remove professional and technical employees of the Hawaii Public Broadcasting Authority from the University of Hawaii APT salary schedule and place them under the State's compensation plan; this action would be in keeping with the transferral of the broadcasting authority from the University of Hawaii to the Department of Regulatory Agencies.

The bill further provides that exempt employees may be fired on a contractual basis.

The effect of the bill would be to remove the requirement that a separate compensation schedule be adopted in statutes for six exempt HPBA positions by allowing the department to fill them on a contractual basis.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2819-76 and recommends that it pass Second Reading and be referred to the Committee on Human Resources for further consideration.

Signed by all members of the Committee.

SCRep. 318-76 Education on S.B. No. 2940-76

The purpose of this bill is to appropriate funds for the design of a water safety program to teach swimming to all elementary children in the State.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2940-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 319-76 Education on S.B. No. 2309-76

The purpose of this bill is to make funds available for the production of a twenty-six-segment labor television program by Hawaii Public Television and for the contract hiring of the necessary personnel.

The purpose of the amendments to the bill is to remove phrases and a section not necessary to the carrying out of the bill's purpose and to appropriately renumber the remaining sections.

Your Committee on Education is in accord with the intent and purpose of S.B. 2309-76 as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2309-76, S.D. 1, and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 320-76 Education on S.B. No. 2757-76

The purpose of this bill is to establish an operating mechanism for the Iolani Palace Museum complex through statutes.

The purpose of the amendment to the bill is to change the means from statutory change to appropriations of funds.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2757-76, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2757-76, S.D. 1, and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 321-76 Ecology, Environment and Recreation on S.B. No. 2721-76

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$1,900,000, or so much thereof as may be necessary, for site acquisition, planning, construction, and equipping of a Rainbow Park to be located at McGrew Point, Ewa District, Oahu.

At a public hearing on this bill, the Department of Land and Natural Resources testified that a sum of \$116,000 was appropriated by the Eighth Legislature during the 1975 session for this project using unexpended balances from Item J-12, Act 218/74. Land purchase procedures have been initiated with these funds.

The Department of Land and Natural Resources has informed your Committee it has been indicated to them the State would be well advised to obtain in writing the agreement with the federal government before money is expended. It is your Committee's understanding that the Navy is stating in writing that it "stands by its commitment to make the lands available for development of Rainbow Bay as described in the conceptual plan," and that "the lands will be leased to the State of Hawaii on a twenty-five year basis or other similar arrangement."

Your Committee wishes to point out that the correct name of the park referred to is as it appears in S.B. No. 2116-76, which appropriates \$500,000 for this same park; the name is Rainbow Bay Recreational Area and Park.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 2721-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Nishimura.

SCRep. 322-76 Ecology, Environment and Recreation on S.B. No. 2908-76

The purpose of this bill is to appropriate \$100,000 for incremental land acquisition for regional park development at Kahaluu, Oahu. The funds will go toward the acquisition of 26 acres of land, which will be joined with the existing six acre Kahaluu Field to form the park.

Your Committee has amended the bill to reflect City and County of Honolulu participation in the park project on a 50-50 matching basis.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. no. 2908-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2908-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 323-76 Health on S.B. No. 2605-76

The purpose of this bill is to require that those who use the skills and teaching methods special to the occupational therapy profession be licensed by the State of Hawaii under professional standards to be set forth by the Board of Occupational Therapy, to provide for continuing education and development of occupational therapists and occupational therapy assistants, and to otherwise protect the public.

Your Committee finds that the Occupational Therapy Association of Hawaii reported

that there are people using occupational therapy techniques without the education or supervision of a qualified therapist.

Many of the techniques that look simple and uncomplicated at first glance as inextricably tried to the neurological complexities of the patient. Should an unqualified person attempt to use these techniques without understanding the full impact upon the patient, he could cause serious injury to the patient.

Your Committee finds that a 1975 survey conducted by the licensing committee of the Occupational Therapy Association of Hawaii indicated that half of the therapists who responded to the survey were not involved in continuing education.

In addition, facilities at which therapists are employed do not allow leave time for education, even if the therapist expresses an interest in further development. In the long run, professional quality would decline and affect the quality of patient care.

Your Committee also finds that the Occupational Therapy Association of Hawaii has no power or legal precedent to reprimand or sanction the behavior of therapists who exceed the bounds of professional ethics and judgment.

Your Committee also finds that New York and Florida have a similar law, and other states have similar bills before their legislatures.

Your Committee has amended the bill by changing the effective date in Sec. 3 and Sec. 18 from January 3, 1977 to September 1, 1977, to allow the board more time to adopt rules and regulations, review applications, and prepare and conduct examinations.

Your Committee has also amended the bill at the recommendation of the State Department of Regulatory Agencies to provide for an appropriation of \$8,000 for a position, office equipment, and supplies to carry out the purpose of licensing in this Act.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2605-76 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2605-76, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 324-76 Health on S.B. No. 2646-76

The purpose of this bill is to establish specific retention periods for medical records and provide for the proper and effective destruction of out-dated medical records.

Your Committee on Health has found that there is a need for clarification of what constitutes a medical record and when such records can be destroyed since such guidance is not provided in the present Hawaii Revised Statutes.

S.B. No. 2646-76 has been patterned after a California statute which has so far presented no major problems regarding health care and adequate retention of significant records. Your Committee finds that all involved facilities and individuals in Hawaii who deal with such records have indicated the need for legal action in this area.

Your Committee makes the following recommendations:

1. that "Autopsy reports" and "Discharge summaries" be added to the list of items defining what constitutes "Medical record", and
2. that on page 2, line 9, the wording regarding "Professional interpretations" be as follows: "Professional interpretations of: laboratory determinations, bio-instrumentation tracings and the like; provided that the samples, specimens, or tracings used as the basis for the interpretation need not be included." and
3. that the wording on page 3, line 14, regarding "Successors" be as follows: "Sec. 321- Successors. If the provider is succeeded by another entity whether by sale or merger, or the like, the successor shall comply with this chapter. If the provider ceases medical activities without a successor, the provider shall devise a plan to retain records under this chapter and the Department of Health shall be informed of the provider's plan and shall approve such plan before its implementation."

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2646-76, as amended herein, and recommends that it pass Second Reading in the form attached

hereto as S.B. No. 2646-76, S.D. 1, and be referred to the Judiciary Committee for further consideration.

Signed by all members of the Committee except Senators Ching and Saiki.

SCRep. 325-76 Higher Education on S.B. No. 1187

The purpose of this bill is to assist residents of Hawaii to obtain a dental education through bilateral contracts with dental schools in other states.

Your Committee has amended the bill in its entirety to create a new chapter in the Hawaii Revised Statutes.

This program is similar to the WICHE program, except that the director of budget and finance will negotiate bilateral contracts outside the WICHE area.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1187, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1187, S.D. 1 and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senator King.

SCRep. 326-76 (Majority) Higher Education on S.B. No. 2774-76

The purpose of this bill is to clarify provisions for the funding of summer sessions at the University of Hawaii.

Your Committee has amended the bill to appropriate \$100,000 for planning, engineering, renovation, leasing and/or construction of existing and new facilities for West Oahu College. These funds will be expended by the University of Hawaii for the purposes of this bill.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2774-76, as amended herein, and recommends that it pass First Reading and be referred to your Committee on Ways and Means in the form attached hereto as S.B. No. 2774-76, S.D. 1.

Signed by all members of the Committee except Senator Yee. Senators King, Yim and Leopold did not concur.

SCRep. 327-76 Economic Development on S.B. Nos. 2534-76, 2799-76, 2805-76, 2809-76, 2960-76 and 2962-76

The intent of these bills is to appropriate the sums needed to cover various agricultural operating expenses. These include three appropriations for agricultural research projects including pineapple wilt disease control research, livestock grain requirements feasibility study, and market promotion and processing research concerning the papaya. In addition, there is a request for a plant crop county agent in Kona, Hawaii, an appropriation to subsidize the intra-State transportation of agricultural produce grown in Hawaii, and an appropriation for game bird propagation.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. Nos. 2534-76, 2799-76, 2805-76, 2809-76, 2960-76, and 2962-76 and recommends that they pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 328-76 Economic Development on S.B. Nos. 2785-76, 2786-76, 2806-76 and 2505-76

The overall purpose of these bills is to further the development of diversified agriculture as an essential component of the State's economy. To this end, these bills appropriate the sums necessary to develop an agricultural products consolidation depot, to establish a grain storage facility on the Big Island, to expand agricultural research facilities on Maui, to build a mullet hatchery, and finally, to expand and improve the South Kohala water project. Each of the aforementioned bills constitutes a particular concern in the multi-faceted agricultural program, and thus each contributes to the development of a viable agricultural industry in Hawaii.



Your Committee on Economic Development is in accord with the intent and purpose of S.B. Nos. 2785-76, 2786-76, 2806-76 and 2505-76 and recommends that they pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 329-76 Economic Development on S.B. Nos. 2793-76, 2808-76, 2789-76, 2787-76, 2804-76, and 2807-76

The underlying intent of the aforementioned bills is to appropriate the funds necessary to develop a strong agricultural program which is an essential component of Hawaii's economic future. To this end, these bills appropriate funds for certain research and development projects, for studies of water system improvements such as reservoirs, and for supportive staffing for various agricultural programs. Your Committee finds that each of these bills contribute to the overall strength of a statewide agricultural program.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. Nos. 2793-76, 2808-76, 2789-76, 2787-76, 2804-76, and 2807-76, as amended herein, and recommends that they pass Second Reading, in the form attached hereto as S.B. No. 2793-76, S.D. 1; S.B. No. 2808-76, S.D. 1; S.B. No. 2789-76, S.D. 1; S.B. No. 2787-76, S.D. 1; S.B. No. 2804-76, S.D. 1; and S.B. No. 2807-76, S.D. 1; and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 330-76 Economic Development on S.B. Nos. 2795-76, 2794-76 and 2882-76

The purpose of the aforementioned bills is to appropriate funds necessary to develop a strong agricultural program which is essential to the future of the State's economy. To this end, these bills appropriate funds for the reimbursement of assessments made in the Panaewa farm and house lots subdivision and for state farm fair projects. Your Committee finds that each of these bills contributes to the overall strength of a statewide agricultural program.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. Nos. 2795-76, 2794-76 and 2882-76 and recommends that they pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 331-76 Economic Development on S.B. No. 2013-76

The purpose of this bill is to appropriate funds to acquire park and mini park lands throughout the State.

Your Committee on Economic Development concurs with the findings of the Committee on Ecology, Environment and Recreation, as stated in Standing Committee Report No. 47-76, March 1, 1976.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2013-76, S.D. 1 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 332-76 Economic Development on S.B. No. 2419-76

The purpose of this bill is to appropriate the sum of \$20,000 to the Department of Agriculture for the operation of the marketing order program for papayas.

Your Committee, in public hearing, has considered the facts and finds that two full-time employees have been hired under this program with their salaries being paid out of the Marketing Order Revolving Fund. All monies received in the revolving fund are obtained through the inspection service charges to the papaya industry. Your Committee further finds that the sum appropriated may be used to contract for the services of these two employees.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2419-76 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee,

SCRep. 333-76 Economic Development on S.B. No. 2421-76

The purpose of this bill is to appropriate \$65,000 for wind, water, environmental impact statement and economic feasibility studies for a Wind-Hydro Electric System for West Hawaii.

In reviewing the situation, your Committee is cognizant of the urgency surrounding the search for alternative energy sources for the future. The instability of an oil-dependent energy policy has been made clear to us in recent years. Furthermore, the nearing depletion of the world's fossil fuels indicates the importance of this search, and this Committee notes with approval the direction the search for alternative energy sources has taken in Hawaii. The wind-hydro electric system proposal suggests the utilization of a non-depleting natural energy source perhaps uniquely suited to Hawaii.

Your Committee, therefore, is in accord with the intent and purpose of S.B. No. 2421-76 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 334-76 Economic Development on S.B. No. 2420-76

The purpose of this bill is to appropriate \$50,000 to continue the Ohia Decline Study at an accelerated pace.

In examining the facts, your Committee finds that the Ohia forest on the island of Hawaii is seriously threatened by an unknown disease which has affected more than 200,000 acres of the forest. This problem has reached epidemic proportions. Your Committee is cognizant of the value of the Ohia forest both as a natural resource and as part of Hawaii's island heritage. Therefore, the Committee believes that the Ohia Decline Study must advance as quickly as possible to determine the cause and develop a solution to this destructive disease.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2420-76 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 335-76 Economic Development on S.B. No. 2472-76

The purpose of this bill is to appropriate \$300,000 for land acquisition, plans and construction to develop the Hilo Water System, trunk line, pumps, storage tank facilities, and appurtenances. The sum appropriated is in supplement to any previous appropriation.

In a public hearing, your Committee examined the situation and finds that the appropriation is needed to improve and expand the Hilo Water System.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2472-76 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 336-76 Economic Development on S.B. No. 2783-76

The purpose of this bill is to provide emergency funds to aid victims of disaster in the State of Hawaii in consonance with the emergency provisions of Chapters 209 and 155, Hawaii Revised Statutes, and S.R. No. 149 relating to declaring the Waianae coast a disaster area.

After a thorough examination of the facts, your Committee finds that the Governor has the authority to proclaim the State or any portion thereof a State Disaster Area under Chapter 209, Hawaii Revised Statutes. When so designated, those persons residing in the area become eligible to be considered for certain relief benefits.

Your Committee further finds that disaster relief funds to support the program outlined in Chapter 209 are not currently available. However, the Department of Agriculture

reports that \$750,000 is presently available in the revolving funds for support of the program detailed in Chapter 155.

Hence, your Committee feels it is necessary to immediately provide emergency funds to implement the recommendations contained in S.R. No. 149 as well as to insure that emergency funds are available for future contingency purposes.

Section 11 of S.B. No. 1806-76 entitled:

"A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE FISCAL BIENNIUM JULY 1, 1975 TO JUNE 30, 1976, AND AUTHORIZING THE ISSUANCE OF BONDS.",

contains an emergency appropriation of \$2,000,000 which, commencing in the next fiscal year, will be responsive to disaster relief provisions contained in Hawaii Revised Statutes if said item passes the review process.

Therefore, your Committee has amended the bill to provide \$750,000 for disaster relief as outlined in Chapters 209 and 155, Hawaii Revised Statutes. The Committee has further amended the bill to authorize the Department of Planning and Economic Development to expend \$500,000 and the Department of Agriculture to expend \$250,000 of this amount.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2783-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2783-76, S.D. 1, and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 337-76 Economic Development on S.B. No. 2784-76

The purpose of this bill is to appropriate \$30,000 for research into products and methods of converting the fresh Hawaiian avocado into marketable processed food products, and for the hiring of necessary personnel, by the Department of Food Science of the University of Hawaii.

Your Committee firmly believes that research into economically feasible methods and processed food products to be made from the Hawaiian avocado is a worthwhile endeavor. Avocados are produced mainly in Kona and in other districts of the State. Production can be readily increased should there be a demand for any processed avocado product as a result of this research, thus providing increased income to the avocado farmers and the State.

Your Committee is cognizant of the restrictions involving the shipping and marketing of Hawaiian avocados to the mainland United States. It is recognized that these regulations were originally motivated by the desire to protect mainland crop areas. However, your Committee feels that there are now advanced methods of pest control and eradication which eliminate the necessity for these restrictions. Therefore, your Committee recommends that the Departments of Agriculture and Planning and Economic Development, the College of Tropical Agriculture, and the Agricultural Extension Service study and determine the means by which the federal restrictions against the export to the mainland of the Hawaiian avocado may be moderated or eliminated.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2784-76 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 338-76 Economic Development on S.B. No. 2788-76

The purpose of this bill is to exempt from real property taxation any livestock improvements constructed for the protection or raising of livestock. This bill is intended to provide tax incentives for agricultural development through an exemption from real property taxation on livestock improvements.

After careful consideration, your Committee finds that precedent for the type of real property tax exemption proposed by this bill is established in Section 246-33.1, Hawaii Revised Statutes, which refers to crop shelters.

Your Committee finds that the livestock industry is an important facet of the diversified

agriculture program in the State and, as such, should be provided with this sort of incentive.

Your Committee, in a public hearing, has amended the bill to specify that the exemption applies only to commercial agricultural ventures. This would disqualify such structures as private stables for recreational purposes from qualifying for the exemption.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2788-76, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2788-76, S.D. 1, and be referred to your Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 339-76 Economic Development on S.B. No. 2797-76

The purpose of this bill is to provide that the appropriation for item 72, in section 2, part I, subsection K of Act 197, Session Laws of Hawaii 1971, as amended, shall lapse as of June 30, 1977 if unencumbered as of that date.

Your Committee, in public hearing, finds that passage of this bill will allow the appropriation to be used for an additional year, which will allow the construction of additional projects during the year.

After discussion, your Committee has amended the bill to change the reference to item 72, in section 2, part I, subsection K of Act 197, Session Laws of Hawaii 1971, as amended, to item 67, which is the correct item.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2797-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2797-76, S.D. 1, and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 340-76 Economic Development on S.B. No. 2801-76

The purpose of this bill is to appropriate funds for the continuing development, acceleration, and implementation of the agricultural park program in Hawaii.

Your Committee has examined in depth the concept of a development of agricultural parks in the State of Hawaii as well as the progress made to date.

Your Committee has concluded that it would be helpful to reiterate the philosophy and rationale for development of agricultural parks in order to reaffirm the legislative mandate and to provide guidance to the executive branch of government in carrying out legislative policies. Accordingly, Part I of this committee report restates the previous legislative mandate.

Furthermore, your Committee has found that there is a lack of direction and priority in developing agricultural parks on a statewide basis. Accordingly, your Committee has made several recommendations in Part II of this committee report.

#### PART I.

The following are excerpts from part of the Standing Committee Report No. 429 of the 1975 Session which clearly set forth the legislative rationale and philosophy for the development of agricultural parks which are reaffirmed today:

"Historically, agriculture had played a prominent role in the State's economy with pineapple and sugar as the major crops in this leading industry. Over the past decade, however, your Committee notes that agriculture had been in the process of change and has been replaced by tourism as the major economic base in the State. Your Committee reports that the number of farms have declined sharply by more than 30% from 1960 to 1970. In addition, your Committee notes that the recent phasing out of several pineapple and sugar operations in our Islands is alarming when it is coupled with the fact that one out of three farms has closed down in Hawaii, especially in light of the current world-wide food shortage and increasing energy and labor costs which are already being passed along to the consumer in Hawaii. The ramifications of these problems are sizeable, and therefore, your Committee recognizes the fact that the welfare of Hawaii's people

will require the State to produce diversified foods for her own use. To this end, your Committee believes it is good policy for the State to make lands available and ready for the farmer.

"Your Committee further believes that a revitalization of agriculture through the development of agricultural parks will result in the broadening of the State's income base and thereby relieve its dependence on a single major source of income.

"In exploring the reasons behind this dramatic shift in agriculture, your Committee has recognized several endemic features of the Hawaiian agricultural system which are stumbling blocks in the way of the stated goal of self-sufficiency. We are an island state surrounded by the vast reaches of the Pacific Ocean; land is a scarce commodity in our State. The very visible problem of demand far exceeding supply is compounded by the fact that the majority of land is controlled by only a few major land owners. With the unprecedented growth in population and in the economy in the last two decades, there have been additional demands for housing which have led to the urbanization and encroachment upon agricultural lands. This has been a major factor in forcing the small, diversified farmer to relocate several times in the past twenty years. For example, on Oahu where growth has been the most concentrated, there is presently no area where the small diversified farmer can have any degree of permanence.

"In these times of intense growth, the large land owner is under pressure to withhold arable land from farm production in anticipation of future development for housing purposes. Thus, in our State where land is a scarcity, your Committee is confronted with the dichotomy of the goal of self-sufficiency in agriculture on one hand, and the pressure on land owners to develop their lands which escalate property values out of reach of the farmers on the other. For these reasons, your Committee firmly believes that an agricultural park is a viable alternative to these challenges.

"Your Committee feels that agricultural parks which are essentially low cost, long-term leased lands set aside only for agricultural purposes should be situated in an area where the maximum economic benefit can be obtained. Your Committee sees the urgent need for the development and implementation of agricultural parks due to the rapid pace of urban growth and the resultant land speculation which have forced both noxious industries and agriculture to relocate time and time again. These factors have added to the cost of operations of agricultural industries by:

- a. Creating high land rents because of speculation which places urban values on all agricultural lands.
- b. Causing high real property taxes since land is taxed on the highest and best use.
- c. Creating high operational costs due to the inability of the farmers to obtain long-term leases: land owners are not willing to commit their land to agriculture for an extended period of time. This inability to obtain long-term leases results in a lack of incentive to make the large capital improvements which are necessary to maximize efficiency. Therefore, the end result is an inefficient and run-down operation.

"Your Committee notes that noxious industries face a similar problem which they have solved by the development of industrial parks. The Campbell Industrial Park is an excellent example of how proper planning coupled with long-term, low-cost land can have a beneficial effect on the environment, the public, the industry, and the consumer. The Campbell Industrial Park has two major refineries, scrap iron yards, a steel mill, and cement plants. In spite of these industries, the Park is so well-landscaped and well-planned that it does not pollute the environment; yet, it permits large capital investments which maximize efficiency.

"Your Committee fervently hopes that the agricultural park concept will provide identical results for agriculture. With proper planning and selection of the best environment for the chosen agricultural commodity, the site for the agricultural park will remain agricultural permanently without being endangered by urban encroachment. Your Committee feels that the Department of Agriculture is best suited to be the lead agency in the areas of agricultural parks. The agricultural park concept will include buffer zones for aesthetic value as well as the practical aspect of animal waste management. Your Committee feels that through the agricultural park system, new concepts can be explored in waste management and recycling. The State also has an opportunity to franchise the new concepts. The development and advancement of this new industry enhances the agricultural park concept, especially in these times of environmental and ecological concerns. Your Committee feels that long-term leases would encourage the heavy capital investments that are

required for adequate and efficient operation of the agricultural industry. Thus, agricultural operations would be protected from urbanization, and the lowest possible cost insured to the consumer.

"Your Committee notes that prior legislative action has been taken in the area concerning agricultural parks. In 1972, Act 110 and Act 202 authorized the Board of Land and Natural Resources to expend one million dollars to acquire land for agricultural purposes for agricultural parks. In February of 1973, a consultant was hired to determine the agricultural park site on Oahu. In December of 1973, the report was completed covering the conceptual design, cost analysis, and site selection of agricultural parks in the order of preference of Kunia, Kahuku, and Ewa. In 1974, the Legislature appropriated additional funds and added that the Kunia Agricultural Park must not be larger than 600 acres and that pineapple lands cannot be used.

"Presently, the Department of Agriculture is negotiating with Oceanic Properties, Oahu Sugar, and Campbell Estate to permit the transfer of leases to the State for the Kunia Agricultural Park. The site of 600 acres has been determined, and the State is presently preparing the memorandum of agreement to hire the engineering and design work. Your Committee estimates that the off and on-site costs will be \$6,000,000 for the Kunia Agricultural Park.

"Your Committee reports that there are currently three agricultural parks being developed throughout the State. The first is Pahoehoe Agricultural Park in Puna on the Big Island where 19 lots were recently leased to farmers. A second increment of eight lots totaling 116 acres will soon be available for leasing to farmers. Also, a second Big Island agricultural park at North Kohala is being developed. On Oahu, the third agricultural park is at Kunia where the estimated date of completion is scheduled for late 1978. Your Committee reports that livestock operations are the most noxious and are presently being forced to relocate once more. The area in Kunia will be aptly suited to this industry.

"It is the intention of your Committee that the Kunia Agricultural Park be limited to viable, ongoing, economic concerns which are being forced to relocate, since they are the hardest pressed industries at the present time.

"Your Committee concurs with testimony given by the Chairman of the Department of Agriculture which explains that the cost of off and on-site improvements is not intended to be amortized to the occupants of the Kunia Agricultural Park or to be calculated into the lease rent. Therefore, the cost of planning, engineering and construction of the off-site facilities is to be excluded from the calculation of the rent to the occupants.

"Your Committee feels that the lease rent to the occupants shall be the raw land lease cost to the State plus the cost of Administration. Your Committee prefers to provide this kind of assistance to viable economic industries rather than by providing special programs, as in Kohala, for entities which have considerable financial difficulties. Thus, your Committee feels that the purpose of the agricultural park, as envisioned in Kunia, is to provide low-cost agricultural land to existing livestock concerns that are presently being forced to relocate. The long-term leases and low costs will permit these operations to make the large capital expenditures necessary to maximize the lowest possible cost to the consumer."

## PART II.

In considering the question regarding the development of agricultural parks in the State of Hawaii, the Department of Agriculture has failed to enunciate the criteria and policies in the development of agricultural parks. In addition, the supportive economic information as well as strategies for the development of agricultural parks, particularly in Kunia, were woefully apparent. Accordingly, your Committee recommends the following:

1. That the Department of Agriculture develop policies and criteria for the selection and development of agricultural parks in the State of Hawaii and also rank agricultural parks throughout the State of Hawaii in the order of priority.
2. That the Department of Agriculture develop studies containing financial information as to the capital requirements for the development of each agricultural park for a six-year period beginning 1977 and display the information by fiscal years so that the Legislature in accepting its recommendations will know the funding level that will be required in subsequent years.
3. That one of the most important aspects of the development of agricultural parks is to determine that it is consistent with other agricultural goals in the State of Hawaii. Accordingly, the Department of Agriculture is requested to submit on January 1, 1977

an economic feasibility study to justify the development of agricultural parks which the Department is recommending for legislative funding. In particular, your Committee is anxious to know in greater detail the cost of development of agricultural parks, the amount of subsidies to the farmers, if any, and the nature of the subsidy (i.e. longer amortization for on and off-site costs).

4. The Department of Agriculture should identify the target area for whom the agricultural parks are being developed as well as how well the products that will be produced on the agricultural parks will be marketed and transported and what the market is for such products. Your Committee, after analyzing the problems relating to the Kohala Task Force, is sensitive to the fact that Orchids Pacifica, in particular, was granted a substantial amount of State assistance and there is no readily apparent economical means to market and transport the work product and blossoms. It would be a greater tragedy to develop agricultural parks in the State of Hawaii and to find the same situation as exists in Orchids Pacifica.

While the Department has made progress in the development of agricultural parks in the neighbor islands, the progress of the development of a park in Kunia is frustrating except that there are encouraging developments that have taken place very recently. Accordingly, your Committee has amended this bill to provide for the taking of not more than ten acres of pineapple lands in cultivation to provide a roadway to the site shown in Exhibit "A" which is attached hereto and by reference incorporated herein. Your Committee is cognizant of the negotiations between the Oahu Sugar Company and the State of Hawaii regarding the land shown in Exhibit "A" and it is the most promising site for the development of an agricultural park in Kunia.

The bill has also been amended to provide for the condemnation of the existing leasehold as well as the outright condemnation of the fee of said land. In order to provide the agriculture community with the lowest possible economic base which must be a consideration in setting land rent, your Committee strongly supports the purchase of the existing lease rather than the condemnation of the land in fee. As in the case of the Kilauea lands on the island of Kauai, the cost to the State of Hawaii will be significantly less than the outright purchase of the fee, and thus, your Committee strongly recommends that priority consideration be given by the Department of Land and Natural Resources in acquiring the leasehold interest of Oahu Sugar rather than commencing outright condemnation of the fee simple interest of the property.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2801-76 as amended, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2801-76, S.D. 1, and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 341-76 Economic Development on S.B. No. 2802-76

The purpose of this bill is to exempt all real property of the Foreign Trade Zone from real property taxation by amending Section 212-8, Hawaii Revised Statutes.

After a public hearing and a thorough examination of the facts, your Committee finds that, presently, all real property belonging to the State, County or the United States are exempt from taxation. However, such public property is subject to real property taxation if leased to private persons for a term of one year or more, and the lessee, licensee or permittee will be deemed the owner to be assessed.

Your Committee further finds that the Foreign Trade Zone is under the control and management of the Department of Planning and Economic Development, a public agency of the State, and as a public property, it is exempt from taxation. If, however, such property is leased for commercial purposes, the property will be subject to real property taxation.

In addition, your Committee believes that, since the intent of the federal enabling legislation and the State's active development of the Zone in Hawaii are to make it an attractive and desirable area for certain foreign trade activities, it is counterproductive to levy the property tax on the permit holders. Moreover, inasmuch as the benefits to be derived from the location of a Foreign Trade Zone in Hawaii are numerous, the general economic gains afforded to the State would affect whatever revenue loss there might be from this exemption.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2802-76 and recommends that it pass Second Reading and be referred to

your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 342-76 Health on S.B. No. 2479-76

The purpose of this bill is to establish Molokai Hospital as a State hospital with the Department of Health having responsibility for all matters pertaining to the planning, construction and improvement of the hospitals and for the operation and maintenance of the hospital.

Molokai Hospital has received State subsidies which have been administered by the Department of Health. For the biennium 1973-1975, \$140,000 for each fiscal year was appropriated. For the biennium 1975-1977, \$270,000 for each fiscal year was appropriated. Because of increased hospital costs an additional \$130,000 for fiscal year 1976-1977 is also being requested of this Legislature by Molokai Hospital in order to continue operations. In addition, the hospital has been forced to discontinue ambulance services.

The required subsidies are over 50% of total operating requirements. This being the case, the State should have more detailed supervision over the day to day expenditure of its funds.

Your Committee adopted the recommendations of the Department of Health by amending Section 9 to delete "through June 30, 1978" since the State's biennium budget period is from July 1, 1975, through June 30, 1977. The recommended change to the section is as follows:

"Beginning July 1, 1976 and thereafter, the hospital shall be subject to such budgeting and fiscal procedures as may be required by the department."

Your Committee further amends the bill as recommended in testimony, to allow employees better position benefits. Section 6 is amended to read as follows:

"SECTION 6. Retirement system. Upon the transfer, the employees shall be admitted to membership in the state retirement and postretirement systems provided for in chapter 88, Hawaii Revised Statutes. Upon certification of years of service and the transfer of funds in the hospital's retirement or pension plan, if any, to the state retirement system by the hospital, with the departments concurrence, a transferred employee shall be given prior service credits under chapter 88, Hawaii Revised Statutes, for his years of service at the hospital for which he agrees to have additional deductions made from his compensation or to make a lump sum payment therefor, provided that the employee shall be credited with his contribution, if any, to the transferred Molokai Hospital retirement or pension funds.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2479-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2479-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Ching and Saiki.

SCRep. 343-76 Legislative Management

Informing the Senate that S.R. Nos. 265 to 275, Spec. Com. Rep. No. 16 and Stand. Com. Rep. Nos. 233-76 to 342-76 and 344-76 to 352-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 344-76 Health on S.R. No. 198

The purpose of this resolution is to request the Department of Health to address the individualized needs of the mildly mentally retarded persons at Waimano whose primary problems are delinquent behavior and emotional disturbances. These persons presently do not fit within the existing programs and restrictive environment at Waimano.

Your Committee finds that the Department of Health recognizes the program and staffing deficiencies and is currently taking action to correct them through a request in the current supplemental budget.

Your Committee on Health concurs with the intent and purpose of S.R. No. 198 and



recommends its adoption.

Signed by all members of the Committee.

SCRep. 345-76 Health on S.B. No. 2231-76

The purpose of this bill is to change the institution formerly referred to as Kula Sanatorium and General Hospital and Kula Sanatorium to Kula Hospital.

Your Committee finds that the Department of Health is in accord with this amendment as the existing name no longer properly describes the institution.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2231-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 346-76 Health on S.B. No. 2519-76

The purpose of this administration bill is to establish the sound legal base necessary for the State to gain primary enforcement responsibility under the Federal act for safe drinking water.

The State Department of Health and the Attorney General stated in testimony that further legal review pointed out the need to clarify the language of the original bill.

Your Committee adopted the following recommendation of the Attorney General and the Department of Health to better conform the bill to Federal requirements, increase clarity, and ease enforcement:

1. The definition of "public water system" on page 1, line 10 of the bill was changed to read:
  - (3) "Public water system" means a system which provides piped water for human consumption ~~to at~~ if the system has at least fifteen service connections or regularly serves at least twenty-five individuals. This change was recommended by the Environmental Protection Agency (E.P.A.) to clarify that a public water system exists even if not all 15 recipients are actually using the system at the time.
2. To conform the bill to Federal requirements, as interpreted by E.P.A., the word "maximum" on page 3, line 13 was deleted.
3. The definition of "injection" in the bill was revised upon E.P.A. recommendations, to avoid jurisdictional disputes. The Department of Health should not have to prove that a contaminant may be expected to enter underground waters before it exercises jurisdiction over underground injection. In the definition at page 4, line 14 of the bill, the words "be expected to" have been deleted.
4. To clarify that economic costs are relevant only in rule making and not in the enforcement of drinking water standards, subsection (1), starting at page 4, line 19, was amended upon E.P.A. recommendation.
5. To make sure that record-keeping for drinking water standards is proper in scope, subsection (3) of section 2, on page 6 at line 4, was revised.
6. To clarify the limits to authorizing underground injection by rule, the following sentence should be inserted into the first paragraph of subsection (5) on page 6, immediately preceding the phrase "any underground injection control program shall:"

"Underground injection authorized by regulation shall not endanger drinking water sources."
- Also, the word "rule" was changed to "regulation" to insure consistency of terms in the bill.
7. To insure that immediate action is taken in the case of an imminent hazard to public health, and to protect due process rights, E.P.A. recommended the following changes:
  - a. On page 8, line 3 "adverse effect" was replaced with "danger".

b. The following was added on page 11 between lines 15 and 16, immediately after "place for the alleged violator to appear":

"When the director issues an order for immediate action to protect the public health from an imminent and substantial danger, the department shall provide an opportunity for a hearing within 24 hours after service of the order."

This amendment also allows a proper coordination with Section -4 of the bill.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2519-76, as amended herein, and recommends that it pass second reading in the form attached hereto as S.B. No. 2519-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 347-76 Ecology, Environment and Recreation on S.R. No. 95

The purpose of this resolution is to establish the fact that the residents of the community known as Salt Lake have a right to adequate park and open space, centrally situated upon and around the most prominent natural feature of the area, Salt Lake itself, and to call on the department of land and natural resources to begin actions to reserve this area for public use.

That the Salt Lake area is becoming densely populated cannot be denied; some 30,000 people will live there when development has run its course.

That this burgeoning community lacks park and open space also cannot be denied; through mischance and bad policy, the residents of the area have been denied any reasonable expectation of adequate recreational areas in their midst. Present plans call for a private golf course over a substantial portion.

The causes of this state of affairs are various. The resolution offers a remedy. It is a simple one: a guarantee that the area shall be for public not private purposes, that the people of the Salt Lake area can expect to have the park and open space and the recreational opportunities their community so badly needs and so unquestionably deserves.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.R. No. 95, and recommends its adoption.

Signed by all members of the Committee except Senator Nishimura.

SCRep. 348-76 Ecology, Environment and Recreation on S.C.R. No. 24

The purpose of this concurrent resolution is to establish the fact that the residents of the community known as Salt Lake have a right to adequate park and open space, centrally situated upon and around the most prominent natural feature of the area, Salt Lake itself, and to call on the department of land and natural resources to begin actions to reserve this area for public use.

That the Salt Lake area is becoming densely populated cannot be denied; some 30,000 people will live there when development has run its course.

That this burgeoning community lacks park and open space also cannot be denied; through mischance and bad policy, the residents of the area have been denied any reasonable expectation of adequate recreational areas in their midst. Present plans call for a private golf course over a substantial portion.

The causes of this state of affairs are various. The concurrent resolution offers a remedy. It is a simple one: a guarantee that the area shall be for public not private purposes, that the people of the Salt Lake area can expect to have the park and open space and the recreational opportunities their community so badly needs and so unquestionably deserves.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.C.R. No. 24, and recommends its adoption.

Signed by all members of the Committee except Senator Nishimura.

SCRep. 349-76 Education on S.B. No. 1623

The purpose of this Bill is to provide through statutes for the equal access to education in our public school system by eliminating the channeling of students into stereotyped sex roles and to ensure that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational or recreational program or activity receiving State financial assistance or utilizing State facilities.

The purpose of the amendment to the bill is to add the phrase "or County" to section 296-61.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1623, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1623, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 350-76 Education on S.B. No. 2235-76

The purpose of this bill is to expand the Student Conference Committee by the inclusion of two students from schools represented by the Hawaii Association of Independent Schools.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2235-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 351-76 (Majority) Education on S.B. No. 2923-76

The purpose of this bill is to remove from the statutes the portion of Section 1038, H.R.S., that deals with the setting aside of one percent of the cost for original construction of any state building for the acquisition of works of art and to terminate the State Foundation on Culture and the Arts upon the expenditure of all funds allocated to it.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2923-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda. Senator Anderson did not concur.

SCRep. 352-76 Human Resources on S.B. No. 2326-76

The purpose of this bill is to make several amendments to the Unemployment Compensation Law to ensure that benefits are paid only to those claimants who are involuntarily unemployed through no fault of their own, to provide the means to detect and prevent fraudulent claims, and to provide adequate financing of the Unemployment Insurance Trust Fund to restore its solvency.

The specific proposals are:

1. To amend the definition of "weeks of employment" in Section 383-1(19) to include only those weeks in which an individual works for at least 20 hours or is compensated for vacation, holiday, or sickness. The present law considers a week with as little as one hour of work as a week of employment. The amendment would allow benefits to be paid only to bona fide members of the labor force, while allowing for some variation in hours of full-time work which might occur on occasion or for a period of time due to poor economic or business conditions. The proposed amendment would preclude the payment of benefits to part-time workers only marginally attached to the labor force.
2. To amend the provisions for disqualification due to voluntary separation from employment without good cause (Section 383-30(1)), discharge or suspension for misconduct (Section 383-30(2)), and failure without good cause to apply for or accept suitable work (Section 383-30(3)) in order to require an individual to requalify for benefits by becoming employed for a minimum of five consecutive weeks subsequent to the disqualification, and then being separated from such subsequent employment under non-disqualifying conditions. Under the present law, an individual disqualified for any of the aforementioned reasons may not draw benefits for three to eight weeks; however, after serving his

disqualification period, the individual may then draw his full benefit entitlement, if he is otherwise eligible to do so. The intent of the law is to pay benefits to workers who are involuntarily unemployed. Under the proposed amendment, an individual who caused his own unemployment would not draw benefits until he has amply demonstrated his attachment to the labor force by working subsequent to his voluntary unemployment.

3. To cancel a claimant's entitlement to benefits for a 24-month period under Section 383-30(5) when an individual is determined to have committed fraud in order to obtain benefits to which he is not entitled. The present law provides for a disqualification period of one to fifty-two weeks in cases of fraud. This disqualification becomes meaningless in situations wherein fraud is determined after an individual has exhausted his benefits in his benefit year (52-week period) or in instances where the disqualification is imposed early in the benefit year and the claimant returns to draw benefits after serving his disqualification period. The proposed amendment would increase the penalty for fraud by not only disqualifying the claimant, but also cancelling his benefit entitlement for the next 24 months.

4. To amend Section 383-61 to raise the taxable wage base from 90% to 100% of the statewide average annual wage. An increase in the taxable wage base would increase the percentage of total wages subject to unemployment insurance contributions. The increased contributions would defray to a greater extent than at present the cost of paying higher weekly benefit amounts to higher salaried individuals. Any individual whose annual wage was equal to or less than the average annual wage would have his total earnings subject to contribution. The proposed 10% increase in the taxable wages would increase contributions to the Trust Fund with minimal hardship to employers.

5. To amend Section 383-62(b) to require governmental employers to pay in advance to the Trust Fund sufficient moneys from which benefits will be paid to former governmental employees. Under the present law, benefits paid to former governmental employees are advanced from the Trust Fund, which is then reimbursed by governmental employers. This proposal would correct the inequitable situation in which the Trust Fund is being used by non-contributors and is losing interest on moneys advanced to pay benefits to former governmental employees. The cost to governmental employers will be the same as the cost under present provision of the law.

6. To curtail the noncharging of benefits by deleting Section 383-65(b), and by adding two new subsections to Section 383-65. Noncharged benefits in 1974 amounted to \$13.1 million. Although this amount of benefits was not charged to individual employers, it was paid out of the Trust Fund, thereby decreasing the fund by a proportionate amount of dollars. Because of the drain on the fund, every employer's tax rate was increased to replenish the fund. In other words, each employer is actually paying for the noncharging of benefits by the overall increase in tax rates. This is an inequitable situation, since the noncharging of benefits to individual employers results in the eventual charging of all employers through increased tax rates. Curtailing the noncharging of benefits would restore a more "pure" experience rating system which would more accurately reflect the unemployment experience of each employer.

7. By adding a new Section 6 to provide for a temporary financing measure for calendar year 1977. The amendment provides for the increase of the current 3.0% contribution rate by one-half per cent (0.5%). This will require the payment of contributions by all covered employers at the flat rate of 3.5% of their taxable wages. The contribution rate schedules in the current law have proven to be insufficient to provide adequate financing of the program and the Trust Fund has been depleted. Taxing all employers at the flat rate of 3.5% for one year will finance the benefits for that period and allow time for new financing provisions to be incorporated in the law during the 1977 session of the Legislature.

8. To amend Section 383-94 to provide a more effective means of obtaining information from employers to prevent and detect fraudulently filed claims by requiring employers to report all new hires and terminations to the Department of Labor and Industrial Relations. Under the present law, an employer must report the employment and wages of a former employee who files a claim for unemployment insurance benefits when the employer is directed to do so by the Department. The proposed amendment would provide the Department with current information to be used in the detection and prevention of fraud; it would permit the Department to promptly allow or deny benefits to claimants, without having to request additional information from employers after benefit claims were filed; it would enable employers to prepare required forms at the same time they were closing out payroll and personnel records of terminated employees, rather than having to prepare required forms at a later date upon request from the Department.

Your Committee has amended the bill by deleting Sections 6 and 7 and by adding a new Section 6 and by renumbering Section 8 to Section 7 to maintain its sequence.

The new Section 6 of the bill will amend Section 383-62(a) by adding the following language: "For the calendar year 1977, each employer shall pay contributions equal to three and one-half percent (3.5%) of wages paid by him during such calendar year."

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2326-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2326-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 353-76      Legislative Management

Informing the Senate that S.C.R. Nos. 68 and 69, S.R. Nos. 276 to 279 and Stand. Com. Rep. Nos. 354-76 to 363-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 354-76      Economic Development on S.B. No. 1475

The purpose of this bill is to amend Chapter 46, Hawaii Revised Statutes, to permit the counties to gradually phase out nonconforming uses to the zoning codes. This involves the addition of language which will permit the counties to enact zoning ordinances which may "regulate nonconforming uses" and provide for their elimination by amortization or as uses are discontinued.

In a public hearing, your Committee considered favorable testimony from the City and County of Honolulu and others. Your Committee finds that most nonconforming statutes in other jurisdictions have recognized two points: (1) that zoning is by and large a perspective tool for control of lands in development and future use rather than a means of changing existing buildings or uses; (2) that continuance in perpetuity is a danger unless nonconformance is fully defined and all appropriate means for termination are provided.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1475, as amended herein, and recommends that it be placed on the calendar for Third Reading in the form attached hereto as S.B. 1475, S.D. 1.

Signed by all members of the Committee.

SCRep. 355-76      Economic Development on S.B. No. 1949-76

The purpose of this bill is to amend Chapter 225, Hawaii Revised Statutes, to include the superintendent of education and the executive director of the Hawaii housing authority, as well as the directors or chairmen from the departments of health, social services and housing, and from the office of environmental quality control as members of the policy council.

The bill charges the director of the policy council with the responsibility of holding additional hearings not less than six months prior to finalization and submission of the State Plan to the Legislature. In addition to these public hearings, it is your Committee's intent that the policy council hold informational meetings including workshops for the Legislature and the public.

Your Committee, in concurring with the findings of your Committee on Ecology, Environment and Recreation, notes that in the event the State Plan is to be presented to the 1977 Session of the Legislature, the public hearings mandated in Section 225-23 must be held in the summer of 1976. However, if the Plan is not formally presented to the Legislature until the 1978 Session, then the public hearings must be held in the summer of 1977. Based upon the status report to date, it does not appear that a meaningful plan will be developed for presentation in 1977, and therefore, meaningful public hearings will not be possible in the summer of 1976. The Committee would like the Department of Planning and Economic Development to make every effort to formulate the State Plan pursuant to Act 189; however, emphasis should be placed upon the development of a quality product rather than upon the time constraints imposed.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1949-76, S.D. 1 and recommends that it be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator King.

SCRep. 356-76 Economic Development on S.B. No. 2092-76

The purpose of this bill is to eliminate possible multiple jurisdiction among county government agencies over the shoreline area. The problem actually is unique to the City and County of Honolulu, as the planning commissions of other counties are the responsible agencies. In Honolulu, however, there is a possibility that as many as three agencies could share jurisdiction.

The intent of the bill, as amended, is to enable the county council to select the county government body which shall review the plan by ordinance. Moreover, in the event that no action is taken by the county council, the bill provides that such review shall be undertaken by the county governmental body authorized to grant variances from zoning requirements.

Your Committee, after careful consideration, has amended the language of the bill for purposes of clarity.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2092-76, S.D. 1, as amended herein, and recommends that it be placed on the calendar for Third Reading in the form attached hereto as S.B. No. 2092-76, S.D. 2.

Signed by all members of the Committee.

SCRep. 357-76 Economic Development on S.B. No. 2094-76

The purpose of this bill is to update the language of Section 101-2, Hawaii Revised Statutes, to provide that with respect to the disposition of excess property acquired by a condemning authority, the "appropriate county zoning authority" rather than the "condemning authority", shall make the determination as to the applicability of zoning regulations to the excess property.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2094-76 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 358-76 Economic Development on S.B. No. 1822-76

The purpose of this bill is to extensively revise Section 183-41, Hawaii Revised Statutes, to conform with Section 205 and to strengthen the enforcement powers of the Board of Land and Natural Resources. In the achievement of the first of these purposes, the provisions of Section 183-41 are made applicable to the Conservation District as a whole, rather than just the forest and water reserves, and the title is changed accordingly. Numerous proposed changes relate to the second purpose. The section is amended to provide a more precise definition of the term "nonconforming use". In addition, the term of temporary variances would be limited to one year. Further, the proposed changes delete the provision requiring notice of public hearings to be mailed to all landowners directly affected. Moreover, periodic reviews of regulations affecting the Conservation Districts, its subzones and their uses are mandated. This provision would remedy the present situation in which Regulation 4 of the Department of Land and Natural Resources is badly outdated. The proposed changes require the Board of Land and Natural Resources to consider available natural, physical and historical data in establishing subzones so as to encourage water conservation and the preservation of other physical, natural and historic resources. Additional provisions are made for enforcement of the law and regulations.

Your Committee finds that the revisions proposed in S.B. No. 1822-76 are clearly needed as Section 183-41, Hawaii Revised Statutes, has been amended on a piecemeal basis since its enactment into law in 1957.

In examining the bill, your Committee has made several minor amendments, largely for the purposes of clarification. Additionally, full consideration was given to other proposed legislation affecting conservation plus the input provided during public hearings and where possible requested provisions were incorporated in this bill.

It should also be noted that this bill contains no changes to procedures currently in effect for utility companies. Regulation 4 provides that all applications including those of utility companies be reviewed in depth by the Board.

Your Committee on Economic Development is in accord with the intent and purpose

of S.B. No. 1822-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1822-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 359-76 (Majority) Economic Development on S.B. No. 2545-76

The purpose of this bill is to clarify the regulatory responsibilities of state and county agencies in regard to maintenance, repair, and improvement of fishponds, and to ensure that proper environmental safeguards are coupled with conditions encouraging retention of fishponds.

Your Committee finds that the existing system created to preserve natural fishponds in the State is cumbersome and inefficient and often deters private citizens from refurbishing and maintaining fishponds found on their lands. Your Committee feels that the conservation of these many fishponds deserves our attention and concern and supports measures which will encourage such conservation.

In a public hearing, your Committee received testimony on behalf of this bill, and agrees with the Department of Land and Natural Resources that the addition of the terms, "Strengthening and Reinforcement", to present regulations will facilitate the conservation of these natural sites in the future.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2545-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee. Senator King did not concur.

SCRep. 360-76 Economic Development on S.B. No. 2884-76

The purpose of this bill is to amend Section 205-1, Hawaii Revised Statutes, to provide that the Executive Officer position of the Land Use Commission shall be exempt from civil service status.

Under the quasi-judicial format, mandated by the last session of the legislature, the position of Executive Officer of the Land Use Commission has changed from a planner oriented position to a specialized administrative position. The scope of work requires expert knowledge of the Administrative Procedures Act and involves quasi-judicial proceedings, acting as Hearing Officer and assisting the general public in processing petitions.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2884-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 361-76 Economic Development on S.B. No. 2885-76

The purpose of this bill is to amend Section 205-4, Hawaii Revised Statutes, for three purposes:

1. To allow the staff and members of the Land Use Commission to view and inspect the actual property under petition prior to making a decision. Presently, the Commission is prohibited from viewing the subject property unless prior permission is granted by the parties in a proceeding. We believe the Land Use Commission will be greatly aided in making sound decisions by this amendment.

2. To extend time periods for both hearing and action meetings. Under the quasi-judicial procedures of Act 193, enacted in 1975, the Land Use Commission finds it untenable to do an adequate job within the present time constraints. This Bill would extend the time limit for the hearing from one hundred twenty days to one hundred eighty days and extend the time limit for the action meeting from ninety days to one hundred eighty days. We find these new time periods to be justified.

3. To extend the Special Use Permit time allowance. The present statute provides that the County must forward a complete record to the Land Use Commission within ten days after acting to approve a petition for a Special Use Permit. The complete record includes the minutes of the meeting held by the County. The counties have experienced

great difficulty in fulfilling this requirement and it is reasonable to extend the ten day period to sixty days in order to insure that the complete record is transmitted to the Land Use Commission.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2885-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 362-76 Economic Development on S.B. No. 2902-76

The purpose of this bill is to redress the imbalance in bargaining positions between lessors and lessees of real property leaseholds by amending Chapter 519, Hawaii Revised Statutes. The bill amends the statute to provide that, where offsite and onsite land improvements have not been constructed or paid for by the lessor, the value of such land improvements shall be deducted from the land value for purposes of lease renegotiations. Furthermore, the statute is amended by adding a new section to provide that all nonresidential leases of real property shall specify reservation of rent, ground rent, lease rent, and any rental or payment for the use of fixtures, improvements, equipment or services for the first thirty years of the lease or for the full term of the lease, if the lease is for less than a thirty-year period.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2902-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 363-76 Economic Development on S.B. No. 2992-76

The purpose of this bill is to amend Chapter 209, Hawaii Revised Statutes, essentially to provide for:

1. Personal loans up to a maximum of \$5,000 to be made to disaster victims;
2. Increasing the interest rate for loans from 4 percent to 6 percent per year;
3. Establishing a State Disaster Revolving Loan Fund in support of Chapter 209;

In a public hearing, your Committee has determined natural disasters such as occurred in Waianae recently are inadequately covered under the existing statute. Approximately 100 families sustained total losses of about \$200,000 to their homes, furniture, appliances, automobiles, and personal possessions.

After careful consideration, your Committee has amended the bill to provide:

"Section 209-34. State Disaster Loan Fund. There is established the State disaster loan fund into which shall be deposited all monies received as repayment of loans and interest payments as provided in this part, and from which the director of planning and economic development may make loans in accordance with provisions of this part."

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2992-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2992-76, S.D. 1, and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 364-76 Legislative Management

Informing the Senate that S.C.R. No. 70, S.R. Nos. 280 to 288 and Stand. Com. Rep. No. 365-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 365-76 (Majority) Human Resources on S.B. No. 2225-76

The purpose of this bill is to give an employee the option to waive all or part of the required health care benefits provided by the employer or to agree to pay a greater



share of premiums for such benefits than is required by Chapter 393, Hawaii Revised Statutes which deals with prepaid health care.

The original intent of the Prepaid Health Care Act was to provide protection for workers by requiring employers to provide a prepaid health care plan to protect employees against the high cost of hospital and medical care incurred by unexpected mishaps and illnesses. This bill would allow the individual to voluntarily waive coverage as provided by the employer.

Your Committee has amended the bill by allowing the employee the option to waive all of the required health care benefits if the employee can show evidence of coverage under a prepaid health care plan. Your Committee has further amended the bill by not allowing an employee who chooses to be covered under the employer's plan to agree to pay a greater share of the premiums for such benefits.

Your Committee further believes this bill should allow an employee who is covered under a personal health care plan to continue this coverage without also being required to pay for his employer's plan, thereby eliminating unwanted duplicate coverage. Your Committee believes that these amendments will retain present provisions that prevent any possible employer abuses and coercion.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2225-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2225-76, S.D. 2.

Signed by all members of the Committee. Senators R. Wong and Yamasaki did not concur.

SCRep. 366-76 Legislative Management

Informing the Senate that S.C.R. Nos. 71 to 73, S.R. Nos. 289 to 293 and Stand. Com. Rep. Nos. 367-76 to 378-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 367-76 Ways and Means on S.B. No. 1512

The purpose of this bill is to establish a revolving fund for use by the Department of Agriculture in providing inspection services for State and Federal marketing order programs.

Your Committee has amended this bill to provide that marketing order inspectors hired under these programs will be exempt from Chapters 76 and 77, Hawaii Revised Statutes. It is our understanding that this exemption will expedite the administration of these programs.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1512, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1512, S.D. 1.

Signed by all members of the Committee.

SCRep. 368-76 Ways and Means on S.B. No. 1794-76

The purpose of this bill is to amend section 456-2, Hawaii Revised Statutes, in the following manner: (1) Eliminate the durational residence requirements that a prospective notary public be a resident of the State for one year. (2) Increase the bond amount for notaries in each judicial circuit to \$5,000 and eliminate the differential in bond amount that presently exists. (3) Increase the fees charged to notaries public by the attorney general for the issuance or renewal of a notary public commission and by the circuit courts for filing a copy of a notary public commission and for a certificate of authentication.

The elimination of the durational residence requirement is a housekeeping measure since a number of judicial decisions in recent years have made it clear that a durational requirement relating to residency cannot be upheld. The bond amount is increased to afford greater protection to members of the public. The increase in fees charged to notaries public by the attorney general and the circuit courts is necessary due to the increased administrative costs.

Your Committee notes that the age of notaries was lowered from twenty to eighteen by section 22, Act 2, Session Laws of Hawaii 1972, and is incorrectly amended by this bill.

Your Committee has accordingly conformed this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1794-76, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1794-76, S.D. 1.

Signed by all members of the Committee.

SCRep. 369-76      Ways and Means on S.B. No. 1809-76

The purpose of this bill is to amend the statutes with regard to the solicitation of students by agents of private schools and correspondence schools. This bill changes the amount of the surety bond required to be posted by such agents from \$1,000 to \$2,000 and the fee for license application and renewal from \$5 to \$10.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1809-76 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 370-76      (Majority) Ways and Means on S.B. No. 1859-76

The purpose of this bill is to add the Campus Center to the list of activities which are exempted from central services expenses.

According to the Dean of Students at the University of Hawaii, the Campus Center is the same sort of special fund operation as student housing, summer session, continuing education and all campus bookstores and cafeterias. All these programs are now exempt from Act 34 charges. As such, to be consistent with current statutes, the Campus Center should be included in the exemption.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1859-76 and recommends that it pass Third Reading.

Signed by all members of the Committee. Senator Hara did not concur.

SCRep. 371-76      Ways and Means on S.B. No. 2095-76

The purpose of this bill is to provide all civil service benefits to all employees of the Oahu Metropolitan Planning Organization. The major effect of this bill is to enable the employees to participate in the Employees Retirement System of the State of Hawaii, effective as of the date of their hiring.

Your Committee concurs that these employees should be entitled to the retirement benefits available to other state employees.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2095-76, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 372-76      Ways and Means on S.B. No. 2643-76

The purpose of this bill is to increase the monthly Dental Plan contribution from \$2.57 to \$3.26 in order to maintain the current level of benefits for the children of state employee beneficiaries under age 19 who are enrolled in the Health Fund's Dental Plan.

Your Committee finds that an appropriation of \$243,400 is being requested to fund the anticipated 26 per cent increase in dental insurance premiums for the 1976-77 fiscal year. Your Committee also finds that current Dental Plan benefits, include a 100 per cent payment for diagnostic services (annual exams, semi-annual teeth cleaning, X-rays as required, and emergency care) and a 60/40 per cent co-payment for other dental services excluding orthodontics.

Your Committee further finds that without additional funding, the parents of such children will be required to pay a higher portion of their dentist's billing because benefits will be reduced to either a 100 per cent payment for diagnostic services and 40/60 per cent co-payment for other dental services excluding orthodontics or a 60/40 per cent co-payment for all dental services excluding orthodontics.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2643-76 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 373-76 Ways and Means on S.B. No. 1801-76

The purpose of this bill is to appropriate funds to compensate individuals pursuant to Chapter 351, Hawaii Revised Statutes, the Criminal Injuries Compensation Act.

Your committee has amended this bill by incorporating the recommended appropriations submitted by the Criminal Injuries Compensation Commission and the Director of Finance. These total to \$265,810.79, representing 163 payments to victims, 60 payments for medical services, 30 payments for legal services and 2 payments for funeral services.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1801-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1801-76, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 374-76 Ways and Means on S.B. No. 1805-76

The purpose of this bill is to permit the Director of Finance to delegate to the Deputy Director of Finance, with the approval of the Governor, the duties and responsibilities specified in chapter 39, Hawaii Revised Statutes, including those relative to the signing of state bonds.

Under present law there is some question as to whether the Deputy Director can sign bonds issued by the State. Your Committee finds that such authority should be allowed, when so delegated and with the approval of the Governor, in order to provide maximum administrative flexibility in the Department of Budget and Finance.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1805-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 375-76 Ways and Means on S.B. No. 1849-76

The purpose of this bill is to amend section 246-49, Hawaii Revised Statutes, relating to penalties for delinquent real property taxes to allow the director of taxation the discretion to determine penalties on delinquencies up to ten per cent. This bill would allow the director of taxation to use a graduated scale of penalty rates depending on the length of the delinquency and would standardize the treatment of real property tax delinquencies with other taxes' delinquencies.

Your Committee finds that the changes proposed in this bill would allow for more flexibility and greater equity in dealing with delinquencies that occur for reasons of illness, emergencies, or situations in which the taxpayer is unavoidably delayed in the remittance of taxes due.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1849-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 376-76 Ways and Means on S.B. No. 1850-76

The purpose of this bill is to correct a technical defect in section 235-1, Hawaii Revised Statutes.

Your Committee finds that Act 217, Session Laws of Hawaii 1973, inadvertently omitted the definition concerning in-state and out-of-state sources of income in section 235-1, Hawaii Revised Statutes. This bill restores the definition with a slight modification. Without this bill, there may be controversy in interpreting other sections of chapter 235.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1850-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 377-76 Ways and Means on S.B. No. 1852-76

The purpose of this bill is to amend section 103-53.5, Hawaii Revised Statutes, relating to out-of-state purchases. The amendment provides that for the purpose of determining the lowest price bid, bids from out-of-state vendors not liable for the general excise tax shall be increased by the applicable use tax in addition to the four per cent retail rate which is already provided for.

Your Committee found that the present statute places out-of-state bidders at a competitive advantage over local bidders who must include the one-half per cent tax in their bid. This bill removes that advantage and allows all vendors to have their proposals considered from an equal base.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1852-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 378-76 Ways and Means on S.B. No. 2333-76

The purpose of this bill is to establish revolving funds for correctional facilities stores.

Your Committee finds that the current operation of correctional facility stores requires wasteful and duplicative paper work. Purchase of resale items are obtained through the expenditure of general funds which are subsequently reimbursed by receipts from the stores. Creation of revolving funds will enable the purchase of resale items from store receipts which will be a more efficient and inexpensive procedure. Under the provisions of this bill, the use of any such revolving fund created shall be limited to no other purpose but the purchasing of items to be sold to inmates.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2333-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 379-76 Legislative Management

Informing the Senate that S.C.R. No. 74, S.R. Nos. 294 to 302, Gov. Msg. No. 114 and Stand. Com. Rep. Nos. 380-76 to 416-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 380-76 Ecology, Environment and Recreation on S.C.R. No. 37

The purpose of this Concurrent Resolution is to support the efforts of the Kaneohe Outdoor Circle in sponsoring the implementation of the Kaneohe Bay Park concept as a part of the 1976 American Revolution Bicentennial observance in the State of Hawaii.

Your Committee finds that Windward Oahu plays an important social and economic role in the life of the Islands, and this area represents valuable cultural, educational and aesthetic areas. The Ahupua'a of Heeia serves as an important link to the Hawaiian past and is deserving of special attention from the Legislature.

Your Committee has amended this Concurrent Resolution to state that priority should be given to preserving and restoring the Heeia Fishpond to a working pond for educational and cultural purposes and to redesignating the Heeia Meadowlands/Heeia Marshland area from urban to conservation. Your Committee has further amended this Concurrent Resolution to include the Shoreline Protection Alliance and the Windward Action Group among the supporting organizations, and to provide that a certified copy be sent to the Executive Director of the Land Use Commission.

Your Committee on Ecology, Environment and Recreation concurs with the intent and

purpose of S.C.R. No. 37, as amended herein, and recommends adoption in the form attached hereto as S.C.R. No. 37, S.D. 1.

Signed by all members of the Committee.

SCRep. 381-76 Ecology, Environment and Recreation on S.R. No. 145

The purpose of this Resolution is to support the efforts of the Kaneohe Outdoor Circle in sponsoring the implementation of the Kaneohe Bay Park concept as a part of the 1976 American Revolution Bicentennial observance in the State of Hawaii.

Your Committee finds that Windward Oahu plays an important social and economic role in the life of the Islands, and this area represents valuable cultural, educational and aesthetic areas. The Ahupua'a of Heeiea serves an important link to the Hawaiian past and is deserving of special attention from the Legislature.

Your Committee has amended this Resolution to state that priority should be given to preserving and restoring the Heeiea Fishpond to a working pond for educational and cultural purposes and to redesignating the Heeiea Meadowlands/Heeiea Marshland area from urban to conservation. Your Committee has further amended this Resolution to include the Shoreline Protection Alliance and the Windward Action Group among the supporting organizations, and to provide that a certified copy be sent to the Executive Director of the Land Use Commission.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 145, as amended herein, and recommends adoption in the form attached hereto as S.R. No. 145, S.D. 1.

Signed by all members of the Committee.

SCRep. 382-76 Public Utilities on H.B. No. 2227-76

The purpose of this bill is to provide an increase in the fee paid by motor carrier or private carrier of property for the safety inspection of each motor vehicle as required by the Commission's rules and regulations. The fee is raised from the present \$3.00 to \$7.00.

The present fee of \$3.00 was authorized by law in 1961, but the cost of labor, modernized and sophisticated inspection equipment, complex vehicular systems, and other requirements since 1961 have made it necessary to increase the safety inspection fee to a proposed \$7.00 for each safety inspection.

S.B. 1840-76, S.D. 1 which is a companion bill, has passed Second Reading and has been referred to the Committee on Judiciary for further consideration.

Your Committee on Public Utilities amends this bill in the following manner to make it consistent with S.B. 1840-76, S.D. 1:

1. Reduced the proposed \$7.00 fee to \$6.00.
2. Reduced the fees which are based on maximum gross weight:
 

Less than 4,000 lbs.	\$7 to \$6
4,000 lbs. or more and less than 6,000	\$8 to \$7
6,000 lbs. or more and less than 8,000	\$9 to \$8

Your Committee on Public Utilities is in accord with the intent and purpose of H.B. No. 2227-76 as amended and attached hereto is H.B. No. 2227-76, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 383-76 Public Utilities on S.B. No. 1742-76

Your Committee heard testimony on two bills relating to the rate-making process of public utilities, S.B. No. 1742-76 and S.B. No. 2185-76. Since S.B. No. 1742-76 is the short form bill, testimony relating to S.B. No. 2185-76 has been taken into consideration and pertinent sections thereof have been amended and incorporated into this bill. The purpose of this bill is to amend Section 269-76, Hawaii Revised Statutes, which covers the regulation of rates, fares and charges of public utilities.

Your Committee heard considerable testimony over a proposal to use a file and suspend concept as a means of reducing regulatory lag. Your Committee concurs with the findings of the Legislative Auditor contained in an earlier report submitted to the Legislature as well as the statements of many of the people testifying at the hearing on this bill that regulatory lag is currently at an unacceptable level and steps must be taken to reduce it. However, based on the testimony of the Director of Regulatory Agencies that additional staffing for the consumer advocate and the Public Utilities Commission should alleviate the problem of regulatory lag, your Committee decided not to adopt the file and suspend concept at the present time.

Instead, a new subsection (d) was added to Section 269-16 which mandates the Public Utilities Commission to use its best efforts to complete the rate proceeding within 9 months from the date the completed application was filed. In order for all parties to know what is expected to be included in a "completed application", the bill directs the Public Utilities Commission to set up standards concerning the data required to be set forth in the application in order for it to be approved for filing. In carrying out this legislative mandate, it is expected that the Commission will complete its deliberations in not more than 9 months in every case except perhaps one involving very special extenuating circumstances.

A new subsection(c) was added to Section 269-16 which provides that a public utility can apply for a temporary rate increase upon a showing of both probable entitlement and financial need.

Your Committee also amended the bill to clarify the law covering appeal procedures. As amended, the bill states that only persons aggrieved in a contested case proceeding, which is more commonly referred to as an economic hearing, have the right to appeal a decision of the Public Utilities Commission to the Hawaii Supreme Court.

Finally, your Committee added a new subsection (g) which provides that whenever a public utility constructs a new 46 KV or greater high-voltage electric transmission system through a residential area, the Public Utilities Commission shall conduct a public hearing prior to granting approval to construct the line. This bill is not intended to require public hearings for routine matters such as reconductoring lines, placing new transformers on existing systems or replacing the same type of equipment on an existing system. Rather, it is intended to cover the type of situation where a new transmission system is proposed to be installed, such as recently occurred in Palolo Valley where considerable public interest was expressed over plans to construct a new 138 KV transmission system through the Valley.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. No. 1742-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1742-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 384-76      Judiciary on S.B. No. 251

The purpose of this administration bill is to insure that the Hawaii Tumor Registry will be able to receive reports of all cancer diagnosed or treated in the State. At present it receives such reports chiefly from hospitals, and frequently after the patient has been discharged or after his death.

The research aspects of the Registry are to study cancer incidence, associations, and survival in different geographical areas, occupations, ethnic groups, etc.

Your Committee concurs with the findings of your Committee on Health in Standing Committee Report No. 118-76.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 251 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 385-76      Judiciary on S.B. No. 1780-76

The purpose of this bill is to conform state and federal laws relating to door-to-door sales.

This bill repeals various sections of Chapter 476, Hawaii Revised Statutes, and replaces them with a new chapter.

Your Committee concurs with the findings of your Committee on Consumer Protection in Standing Committee Report No. 25-76.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1780-76, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 386-76      Judiciary on S.B. No. 1784-76

The purpose of this bill is to repeal the existing law which requires the Office of Consumer Protection to provide counsel to indigent tenants. This bill also allows said Office to receive, investigate and mediate any disputes arising under Chapter 521, Hawaii Revised Statutes.

Your Committee concurs with the findings of your Committee on Consumer Protection in Standing Committee Report No. 160-76.

Your Committee recommends that the bill be amended for technical reasons. The words "meditation" and "meditate" on page 2 of the bill shall be amended to read as "mediation" and "mediate."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1784-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1784-76, S.D. 2.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 387-76      Judiciary on S.B. No. 1786-76

The purpose of this bill is to repeal the existing law relating to restitution.

Act 99, Session Laws of Hawaii 1975, provided that in any civil action brought by the director of the office of consumer protection to collect civil penalties or enjoin any unlawful acts or practices, the court hearing the action may include in its orders or judgments such provisions as may be necessary to effect restitution to any person who sustained damages as a result of the unlawful acts and practices which are the subject of the action and who complained to the office of consumer protection prior to the initiation of the action. Any person in whose favor restitution is ordered need not accept restitution, but his acceptance and full performance of restitution shall bar recovery by him of any other damages in any action on account of the same acts or practices against the person making restitution.

Your Committee feels that the courts possess inherent powers to award restitution where appropriate without statutory authorization. Therefore, this bill provides for the repeal of Section 487-14, Hawaii Revised Statutes, as amended.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1786-76, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 388-76      Judiciary on S.B. No. 1823-76

The purpose of this bill is to amend chapter 195D, Hawaii Revised Statutes, in order to qualify the State of Hawaii to participate in the benefits of Public Law 93-205 (Endangered Species Act of 1973).

Your Committee concurs with the findings of your Committee on Ecology, Environment, and Recreation in Standing Committee Report No. 288-76.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1823-76, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 389-76      Judiciary on S.B. No. 1829-76

The purpose of this bill is to require that the sale of remnants of public lands does not create lots or uses unacceptable to the counties in which such remnants lie.

Your Committee concurs with the findings of your Committee on Economic Development in Standing Committee Report No. 135-76.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1829-76 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 390-76      Judiciary on S.B. No. 1853-76

The purpose of this bill is to amend the definition of "bicycle" to include motorized bicycles, "MOPED"; to set the minimum age of operating a bicycle equipped with a motor to fifteen years of age; to clarify the right of riding on roadways and bicycle paths; and to define the safety requirements of a bicycle equipped with a motor.

Your Committee concurs with the findings of your Committee on Transportation in Standing Committee Report No. 281-76.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1853-76, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 391-76      Judiciary on S.B. No. 1998-76

The purpose of this bill is to enable the liquor commissions in the State to obtain criminal information of applicants for liquor licenses. Section 831-3.1, Hawaii Revised Statutes, states that a person may not be disqualified to engage in a business for which a license is required, solely by reason of a prior conviction of a crime. This bill amends Section 831-3.1(a) and 831-3.1(d) so that the liquor commissions may use criminal information in considering the fitness of a liquor license applicant.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1998-76, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 392-76      Judiciary on S.B. No. 2224-76

The purpose of this bill is to allow insurance advisory organizations to provide services to insurers in the State of Hawaii in areas other than rate-making.

Your Committee concurs with the findings of your Committee on Consumer Protection in Standing Committee Report No. 51-76.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2224-76 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 393-76      Judiciary on S.B. No. 2646-76

The purpose of this bill is to establish specific retention periods for medical records and provide for the proper and effective destruction of outdated medical records.

Your Committee concurs with the findings of your Committee on Health in Standing Committee Report No. 32476.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2646-76, S.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 394-76      Judiciary on S.B. No. 2898-76

The purpose of this bill is to amend Section 519-2, Hawaii Revised Statutes, as amended, to provide that the lease renegotiation provisions of said Section shall apply only to residential houselots occupied or permitted to be occupied as a single-family residence. The bill also provides some technical amendments for purposes of clarity.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2898-76



and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 395-76      Judiciary on S.B. No. 1169

The purpose of this bill is to amend the existing law by imposing a penalty for failure of a person to respond to a summons or citation issued for a traffic violation.

This bill incorporates in the Statewide Traffic Code a provision similar to one in the Traffic Code of the City and County of Honolulu, (Sec. 1526.3 Failure to obey summons). This bill closes a gap that exists in dealing with those offenders who willfully disregard a summons or a citation. It is hoped that this bill will bring about prompt response to a summons or citation.

Your Committee recommends that this bill be amended to clarify the intent of the bill which is to penalize any person who fails to appear in response to a citation for a traffic violation as follows:

"The courts may assess a sum not to exceed \$25 for the cost of issuing a penal summons upon any person who fails to appear at the place within the time specified in the citation issued to him for any traffic violation."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1169, as amended herein, and recommends that it pass Second Reading in the form attached hereto, as S.B. No. 1169, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 396-76      Judiciary on S.B. No. 1772-76

The purpose of this bill is to provide the courts with an alternative method of disposing of criminal cases after a verdict or plea of guilty has been entered.

This bill provides legislative approval and guidelines for a sentencing alternative, commonly referred to as "deferred acceptance of guilty plea" (DAGP), which is currently employed by the Circuit and District Courts in the First, Second and Fifth Circuits. This sentencing alternative is employed in those cases where the interests of both the public and the defendant are best subserved by discharging the defendant without a judgment of conviction, after the defendant has successfully completed a probationary period. In essence, the DAGP procedure is an extension of the conditional discharge procedure authorized by Section 1255 of the Hawaii Penal Code. Under Section 1255, the courts are authorized to discharge, without a judgment of conviction, defendants charged with certain drug offenses.

Your Committee finds that there are cases wherein the facts and circumstances clearly indicate that the defendants are onetime, situational or accidental offenders who will not engage in further criminal activity and do not pose a threat to the safety of the community. For these offenders, the humiliation and inconvenience of arrest and prosecution satisfy the need for punishment; and a trial and conviction would serve no purpose other than to impair the offenders' educational, employment, and professional opportunities and ability to function as a responsible and productive member of the community.

Your Committee further finds that the DAGP procedure, as a sentencing alternative, has the additional benefit of saving time and money for the criminal justice system without adversely affecting the public interest. It will further relieve the congestion in the courts and enable the criminal justice system to direct its limited resources where they can be most beneficial to the community.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1772-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 397-76      Judiciary on S.B. No. 1992-76

The purpose of this bill is to reapportion the congressional districts in the State of Hawaii in accordance with the United States Constitution.

Your Committee finds that the present apportionment of the two congressional districts

in the State of Hawaii using the latest registered voters figures is weighed heavily in favor of the first congressional district. The first congressional district is over-represented and the second congressional district is under-represented, the deviations being +9,910 registered voters, or +6.84%.

In Wesberry v. Sanders, Wells v. Rockefeller and Kirkpatrick+v. Preisler, the United States Supreme Court has enunciated that the United States Constitution in Article I, Section 2, "requires that States create congressional districts which provide equal representation for equal numbers of people."

Your Committee considered three alternatives proposed by the Office of the Lieutenant Governor and finds that alternative III which would add to the first congressional district the balance of precincts in the 18th Representative District along with the entire 16th Representative District and precinct 7 of the 25th Representative District is the most equitable.

#### PROPOSED CONGRESSIONAL DISTRICTS REAPPORTIONMENT

ALTERNATIVES	NO. OF REGISTERED VOTERS IN		IDEAL R. V. IN EACH DISTRICT	DEVIATIONS	
	CONGRESSIONAL DISTRICTS			R. V.	%
	1st	2nd			
Present	134,994	154,814	144,904	9,910	+6.84%
I	144,520	145,558	144,904	654	+0.45%
II	144,516	145,292	144,904	388	+0.27%
III	145,171	144,637	144,904	267	+0.18%

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1992-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 398-76      Judiciary on S.B. No. 1994-76

The purpose of this bill is to amend present law regarding careless or heedless operation of a motor vehicle and riding of animals. The bill changes the offense from "Careless or heedless operation of vehicle or riding of animals", to "Reckless driving or reckless riding of animals." The bill further provides a definition of the offense of reckless driving or riding. The intent of the bill is to provide a distinction between simple negligence and reckless driving, since in the past, it has been possible to be convicted under this section for what amounted to simple negligence.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1994-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 399-76      Judiciary on S.B. No. 2109-76

The purpose of this bill is to amend the Uniform Parentage Act by providing that trials under the Act shall be conducted by the Court without a jury. This provision, contained in the model Uniform Parentage Act, was omitted from the draft of the bill enacted as Act 66, Session Laws of Hawaii, 1975.

Your Committee concurs with the rationale of the National Conference of Commissioners on Uniform State Laws in support of the above provision that "the use of a jury is not desirable in the emotional atmosphere of cases of this nature." Your Committee further believes that a jury trial is not required under the Hawaii State Constitution in paternity proceedings.

The bill also repeals Section 584-19, Hawaii Revised Statutes, relating to the right to counsel and free transcript on appeal. Repeal of this section will enable the courts to exercise more discretion in appointing counsel or in providing free transcripts on appeal for indigent parties because the present section does not provide any standards or criteria for appointment of counsel or furnishing of transcripts.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2109-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 400-76      Judiciary on S.B. No. 2526-76

The purpose of this bill is to amend the present adoption laws to permit the adoption of children brought into the United States from foreign countries under extraordinary conditions (such as the Vietnam airlift) which preclude the securing of proper documentation and information regarding the childrens' parentage and background and which foreclose the giving of notice to said childrens' parents, if any.

The bill makes amendments to form rather than substance intending to clarify the circumstances under which the consent to a child's adoption by said child's adjudicated, presumed or concerned natural father who is not the child's legal father may be dispensed with.

The bill also amends present notice requirements to include "any man whose name appears as father on the child's birth certificate" among those parents who have not consented to adoption to whom notice is required to be given.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2526-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 401-76      Judiciary on S.B. No. 2739-76

The purpose of this bill is to amend present law to provide for fair treatment of the physically handicapped by prohibiting discrimination in connection with leasing or receiving a permit to occupy lands under control of the Board of Land and Natural Resources, and in real estate and financial transactions. The bill also prohibits using the handicapped for blockbusting techniques and further guarantees all privileges to the handicapped at the University of Hawaii, and prohibits exclusion of the handicapped from jury service.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. 2739-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 402-76      Judiciary on S.B. No. 2828-76

The purpose of this bill is to allow a partnership or a corporation to be licensed to participate in boxing contests. This bill also amends Section 416-142, Hawaii Revised Statutes, to permit persons licensed pursuant to Chapter 440, Hawaii Revised Statutes, to form professional corporations.

Under existing law only individuals may be licensed as professional boxers. This bill will enable a professional boxer to be licensed as a partnership or a corporation to participate in boxing contests.

Your Committee recommends that Section 1 of the bill be deleted as the activities under Chapter 440, Hawaii Revised Statutes, (with the exception of those acting as a physician) do not come within the definition of a profession. A corporation may be organized under the general corporation law to engage in any business, including boxing.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2828-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2828-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 403-76      Judiciary on S.B. No. 2925-76

The purpose of this bill is to clarify how reasonable costs, expenses and attorney's fee incurred in the prosecution of the third party judgments and settlements should be shared between the employer and employee.

Under Workers' Compensation when an employee is injured as a result of negligence

by a third party (one who is not a fellow employee or employer), the employee alone the employer alone, or the employee and employer jointly, may sue the third party for damages suffered by employee.

From the third party settlement or judgment, the employer is allowed to recover the compensation he paid for or to the employee as required under the Workers' Compensation Law.

Under the present statute, an ambiguity exists regarding the sharing of reasonable expenses, costs and attorney's fees between the employer and employee.

The question to be resolved is how much of the reasonable costs, expenses and attorney's fees incurred in the prosecution of the claim for settlement or judgment from the third party should be borne by the employer and how much should be borne by the employee.

Your Committee's view is that the reasonable costs, expenses and attorney's fees incurred in the prosecution of the action against the third party for settlement or judgment should be borne on a prorata basis between the employer and employee as the amount of recovery for each (before deduction of reasonable costs, expenses and attorney's fees) bears to the judgment or settlement.

For example, if the employer paid \$10 for compensation for or to the employee and there was a judgment or settlement of \$30 from the third party and the reasonable expenses, costs and attorney's fees amount to \$6, the employer would be reimbursed \$10 and the employee would receive \$20. The employer having received \$10 would be responsible for 10/30ths of the \$6, which is \$4. Thus, the employer and employee would be bearing a prorata share of the expenses, costs and attorney's fee incurred. Thus, the employer would receive \$10 minus \$2 (representing his proportionate share of the expenses, costs and attorney's fees) which is \$8. The employee would receive \$20 minus \$4 (his proportionate share of the reasonable expenses, costs and attorney's fees) which is \$16.

It would be unfair to have only the employee bear the total costs, expenses and attorney's fees and to allow the employer to recover from the third party settlement or judgment without sharing in the costs, expenses and attorney's fees.

The Director of the Department of Labor and Industrial Relations agrees with the changes being recommended herein.

Your Committee has also made some technical changes in the language.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2925-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2925-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 404-76      Judiciary on H.B. No. 1086

The purpose of this bill is to repeal Section 281-78(a)(2) which prohibits the sale or delivery of liquor on election days during voting hours, except as permitted by rules of the liquor commission.

Under the present law authorizing each county liquor commission to allow the sale of liquor during election days, the counties of Kauai and Maui have allowed such sales and apparently have had no problems.

Your Committee finds that there is no good reason for the prohibition of the sale of liquor on election days.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1086, 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 Senator F. Wong.

SCRep. 405-76      Intergovernmental Relations on S.R. No. 220

The purpose of this Resolution is to request the Attorney General to examine the question of whether the State and/or county governments are responsible for the maintenance of drainage canals in the State.

Your Committee finds that the intent of this Resolution is to request the Attorney General

to render his legal opinion on the question of whether the responsibility to maintain drainage canals in the State is vested with the State Government or with the County Governments. The Attorney General is to render his legal opinion to the Senate within 10 days after receipt of this Resolution.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.R. No. 220, and recommends its adoption.

Signed by all members of the Committee except Senators F. Wong and Yee.

SCRep. 406-76 Ways and Means on S.B. No. 2321-76

The purpose of this bill is to amend the existing law by authorizing the appointment of a Deputy Administrative Director of the Courts, subject to Chapters 76 and 77, Hawaii Revised Statutes. The bill also provides for a second deputy sheriff.

The Administration Office of the Department of Judiciary completed a six-month survey and analysis of its functions in the fall of 1975. Included in this review was a comparison with the organizational structure of Executive Branch departments. One point brought out by the review and comparison is that the Judiciary is larger than twelve Executive Branch departments.

At the conclusion of this effort the Administration Office was reorganized to provide for a position of Deputy Administrative Director of the Courts. The position description is in the final stages of being approved by the Department of Personnel Services under its authority to reclassify with the existing civil service structure.

Your Committee desires to create an equity between the compensation for this position and similar positions in the Executive Branch. This bill provides for such equity by authorizing the appointment of a Deputy Administrative Director position subject to Chapters 76 and 77, and provides for a salary comparable to similar positions in the Executive Branch.

This bill provides for an additional first deputy which would allow for civil and criminal matters to be split within the Office of Sheriff. The Office of Sheriff was transferred to the Judiciary in 1975. An initial review of the functions indicates that supervisory control needs to be upgraded to effect a higher degree of efficiency. The first deputy will be responsible for the civil matters while the second deputy will be responsible for the criminal matters. The second deputy shall be on equal status with the first deputy. Your Committee feels that this will provide a degree of control that would greatly improve the services of the Office of Sheriff.

Your Committee has made certain style amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2321-76, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2321-76, S.D. 1.

Signed by all members of the Committee.

SCRep. 407-76 Ways and Means on S.B. No. 2830-76

The purpose of this bill is to amend the existing law by raising the maximum salary of the Revisor of Statutes from \$25,000 to \$37,500 a year effective July 1, 1976.

Your Committee finds that there is a gross imbalance between the salary fixed for the Revisor of Statutes and the salaries established for other positions.

The Senate Committee on Judiciary, in reporting out S.B. No. 512, which became Act 191, Session Laws of Hawaii 1959, which established the Office of Revisor of Statutes, stated:

"Your committee believes that the salary of the revisor should be sufficient to attract a well qualified person and suggests a salary comparable to that paid the assistant attorney general..." (Standing Committee Report No. 63)

The Revisor of Statutes is a legal position. Its basic concern is statutory revision. Statutory revision is the function of organizing the ever-growing bulk of laws into an orderly system so that the laws can be more easily found, understood, applied, and changed. It involves the harmonizing of the language of the entire body of statute law and the elimination of duplications and contradictions, and executed and other obsolete provisions. It involves adjusting the acts and parts of acts judicially declared

invalid and the provisions of law impliedly amended or repealed. It means executing these functions without changing the substance or effect of the existing law. Thus it involves the exercise of judgment on legal questions and goes well beyond mere matters of form, style, and accuracy of reference. These functions call for a person with legal qualifications or training--a person with good general competence in the law, with skill in statutory interpretation, in drafting, and in exacting editorial work.

Your Committee finds that the salary for the position of the Revisor of Statutes should be adjusted so that it is commensurate with the duties and responsibilities of the position and in line with the salaries provided other positions in the public service.

Your Committee has amended this bill to provide for the salary increase to be implemented in two steps rather than one. As amended, this bill raises the salary of the Revisor of Statutes from the current \$25,000 to \$32,500 on July 1, 1976 and then to \$37,500 on January 1, 1977. Your Committee has further amended this bill by providing the necessary appropriation of \$19,000 to cover the increased cost involved.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2830-76, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S. B. No. 2830-76, S.D. 1.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 408-76 Ways and Means on S.B. No. 2230-76

The purpose of this bill is to extend the exemption of okolehao manufactured in the State from the liquor tax for an additional five years, to June 30, 1981. It is hoped that this five-year extension will aid the local okolehao industry get on a firm financial foundation.

Your Committee has amended this bill to provide a similar five-year exemption to the local fruit wine industry. Testimony received indicates that there may be an economic potential to the State in this area which, hopefully, this bill can help stimulate.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2230-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2230-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 409-76 Ways and Means on S.B. No. 2322-76

The purpose of this bill is to conform the state income tax law with the federal income tax law in respect to deductions for contributions to retirement plans by self-employed persons, shareholder-employees, and persons eligible to establish individual retirement accounts.

Your Committee notes that this bill will allow self-employed individuals and shareholder-employees who are now only able to deduct from taxable income, contributions up to \$2,500 or 10 per cent of their compensation, whichever is less, to deduct from taxable income contributions up to \$7,500 or 15 per cent of earned income, whichever is less. The bill will further allow persons not now covered by a qualified pension plan to deduct from their gross income contributions to an individual retirement account in the amount of \$1,500 or 15 per cent of their compensation, whichever is less.

Your Committee finds that it has long been the policy of the State to encourage businesses of all kinds and that failure to pass this bill will result in a disincentive for the small businesspersons, such as the self-employed in all fields, the farmers in the State who are in need of encouragement, and those other persons who because they do not choose to be employed by some business are not able to participate in large pension plans. Not only will failure to conform state law in this area reduce the ability to form pension plans for these individuals, such failure will result in penalizing these individuals under state law for the formation of such plans under federal law, due to the continued taxation of these plan deductions under the state income tax law. Your Committee finds that such a penalty is not in the best interests of the State; and, that even though some revenue loss will occur due to the passage of this bill, it will be more than offset by the increased formation of small businesses and the tax revenues resulting therefrom.

Finally, your Committee finds that in 1967 in Act 117, the State adopted the Keogh amendments to the Internal Revenue Code which are the basis for the amendments incorporated by this bill. Failure to adopt these amendments will add to the already large

amount of paperwork required of small businesses because of differences in state and federal law.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2322-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 410-76 Ways and Means on S.B. No. 2405-76

The purpose of this bill is to appropriate the sum of \$50,000 for a comprehensive review of major employee benefit programs, such review to be performed by the Office of the Legislative Reference Bureau.

Under Act 195, Session Laws of Hawaii 1975, the Legislature made a similar appropriation to the Department of Labor and Industrial Relations which was then to contract with the Legislative Reference Bureau. Because of administrative restrictions and certain legal questions which have arisen, these funds were never released. In view of the importance of this review to employers and employees, your Committee proposes that this bill be passed which will make the appropriation directly to the Office of the Legislative Reference Bureau. It is your Committee's intent to let lapse the prior appropriation in Act 195, Session Laws of Hawaii 1975, so there will be no duplication of funding.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2405-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 411-76 (Majority) Ways and Means on S.B. No. 2831-76

The purpose of this bill is to increase the compensation for members of the Boards of Review of each taxation district from \$10 to \$50 per day.

Your Committee received testimony on the tremendously increased workload of the Board members in recent years. According to the Chairman of the Board of Review, First Tax District, they had 75 scheduled hearings in 1974 and 85 in 1975. For the current year, this number may have to be greatly increased in order to accommodate the approximately 6,200 appeals now on file. Because of the heavy workload and present low compensation, a problem may develop in attracting and retaining competent people knowledgeable in real estate, taxation and related matters to serve on the Boards.

Your Committee believes the requested increase in compensation is justified in order to provide members of the taxpaying public with a fair and equitable appeal procedure for their tax disputes.

Your Committee has amended this bill to provide the necessary \$21,200 appropriation to cover the increased compensation costs.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2831-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2831-76, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee. Senators Hara and King did not concur.

SCRep. 412-76 Judiciary on S.B. No. 1798-76

The purpose of this bill is to amend the State Tort Liability Act to expressly provide that the remedies against the State provided by such Act are exclusive in nature, and, therefore, claimants may not proceed against State employees where the State Tort Liability Act is applicable.

Your Committee questions the wisdom of completely removing State employees from accountability. However, your Committee agrees that adequate legal representation should be provided to employees in civil actions arising out of acts or omissions of such employees while acting within the scope of their employment.

Accordingly, your Committee has amended Section 1 of the bill to add a new section to Chapter 662, Hawaii Revised Statutes, which would authorize representation of State employees by the Attorney General in tort actions arising out of acts or omissions which

occurred while the employees were acting within the scope of their employment.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1798-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1798-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 413-76 Ways and Means on S.B. No. 2797-76

The purpose of this bill is to provide that the appropriation for item 67, in section 2, part I, subsection K of Act 197, Session Laws of Hawaii 1971, as amended, shall lapse as of June 30, 1977 if unencumbered as of that date rather than lapsing as of June 30, 1976 as the Act now provides.

Your Committee finds that the Waikiki improvements issue is a special case which merits a short extension of the lapsing date.

The City and County is presently considering a series of projects which will use the bulk of the remaining state appropriation in combination with City matching funds. Extension of the lapse date by one year should provide sufficient time for the City to finalize its decisions and encumber the appropriation.

Your Committee recognizes the need to accommodate special cases such as the Waikiki improvements. As a general rule, however, your Committee feels that individual projects should not be designated for non-lapsing or extension of the lapsing date associated with the particular appropriation Act. Extension or deletion of lapsing provisions on a large scale will give the legislature a skewed notion of the total level of appropriations it is authorizing. It is not a practice that should be followed either through Executive or Legislative request. As a general policy it would be more prudent for the legislature to allow old appropriations to lapse according to the provisions of their acts and then consider reappropriating the funds for items that still merit implementation.

Your Committee has amended the bill by adding a new section of Findings and Purpose, which identifies the Waikiki improvements issue as a special case.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2797-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2797-76, S.D. 2.

Signed by all members of the Committee except Senators Young and Henderson.

SCRep. 414-76 (Majority) Ways and Means on S.B. No. 2406-76

The purpose of this bill is to increase the general excise tax on transient accommodations from four per cent to eight per cent. The bill provides that fifty per cent of the funds collected shall be paid into the general fund and fifty per cent shall be paid into the transient accommodations special fund created by the bill. Forty per cent of the moneys in the special fund shall be used in such tourist destination areas and for such projects as determined by the director of planning and economic development and the tourist destination advisory committee created by the bill. The other sixty per cent of the funds in the special fund shall be used by the department of land and natural resources for the acquisition of land for the creation or expansion of parks, and the acquisition of beach front property and access thereto.

Your Committee finds that the State is very much in need of new and expanded beach parks, as opposed to other types of parks, and the concomitant acquisition of beach front property and access thereto. Such acquisition must be accomplished as soon as possible or the cost of such land will become prohibitive. Your Committee notes this necessity and strongly requests that the department of land and natural resources in carrying out the provisions of this bill concerning beach parks to place priority on the identification of and development of plans for beach park projects.

Your Committee also notes the necessity of keeping tourist destination areas maintained for one of the State's primary industry. Moneys for this purpose and for beach parks which benefit both the tourist and the people of this State must necessarily be raised from sources other than presently available. Your Committee finds that since these activities will directly benefit the tourist industry, it is only proper that the industry pay for such activities.

Your Committee has amended the bill as follows:



(1) A new purpose section has been added to the bill to reflect the legislature's desire to develop beach parks. The purpose clause also sets forth the necessity for maintaining tourist destination areas. In conformity with this amendment the funds expended for parks are limited to beach parks by inserting the word "beach" in section 3(2), renumbered section 5(2).

(2) The eight per cent tax imposed on transient accommodations has been amended to provide that it shall only be imposed for a five-year period, January 1, 1977 to December 31, 1981. Your Committee has provided that the tax shall return to four per cent on January 1, 1982. Your Committee has added and amended section 237-13(6), Hawaii Revised Statutes, so that persons providing services by providing transient accommodations shall be taxed at eight per cent in a manner similar to those providing transient accommodations under section 237-16(a)(3). Due to the differentiation of activities between the two sections, depending on the manner in which funds are obtained, such similar provisions are necessary to tax the activity of providing transient accommodations in an equal manner.

(3) Section 3, renumbered section 5, has been amended so that the period during which funds are paid into the transient accommodations special fund is the same as the tax at eight per cent. Finally, the effective date section of the bill has been amended to provide that the bill shall be in effect only until January 1, 1982; provided the administrative functions shall continue as long as there are moneys in the transient accommodations special fund. These five-year termination provisions will provide time for the assessment of the program and by requiring such assessment will require the legislature to consider if the program should be continued.

(4) Section 3, renumbered section 5, has been further amended so that it does not create a conflict between existing law such as section 237-31 which provides that general excise taxes shall be paid into the state treasury as a state realization and the deposit of fifty per cent of the funds collected under the bill into the transient accommodations special fund.

(5) Section 3, renumbered section 5, has been further amended to provide that the funds in the transient accommodations special fund shall be expended only upon appropriation by the legislature based upon suggestions submitted regarding tourist destination areas by the department of planning and economic development and the advisory committee created by the bill and regarding beach parks by the department of land and natural resources.

(6) A severability provision has been added and the effective date has been changed from July 1, 1976 to January 1, 1977 to allow the department of taxation sufficient time to prepare the necessary tax forms, instructions, and memoranda for public dissemination.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2406-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2406-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee. Senator Soares did not concur.

SCRep. 415-76      Ways and Means on S.B. No. 2745-76

The purpose of this bill is to establish a State Employment and Training Program, authorizing the Director to establish priorities designed to meet the employment needs of the unemployed and underemployed and develop a whole new cadre of skilled individuals through a training program.

This bill further provides an appropriation of \$12,000,000 to enable the program to establish approximately 1,300 participant positions for one year, including cost of salaries, fringe benefits and administrative costs. The Director may establish a subsidy and loan program to employers in private industry to encourage hiring and training of unemployed and underemployed individuals.

With the more than 30,000 persons unemployed throughout the State, the jobs created under the present State Comprehensive Employment and Training program will not lower the unemployment rate to any significant degree. However, the lapse of program funds on June 30, 1976 will result in a mass layoff on July 1, 1976 during a period of continuing high unemployment.

Your Committee believes that this bill will establish a State Employment Program which will be designed to meet the employment needs of the unemployed and underemployed residents of the State. Your Committee further believes that this bill may help to alleviate the problems of the unemployed and underemployed by developing public service employment

opportunities, providing subsidies and loans to employers in private industry.

Your Committee has amended this bill to clarify the bill's intent to provide temporary transitional employment to unemployed and underemployed individuals, and to allow all branches and agencies of the State and counties to participate.

The bill has been amended to limit the employee benefits to include only sick leave, unemployment insurance, and worker's compensation.

Your Committee has amended the bill to provide for the continued participation of persons participating in Part II employment under Act 151 of 1975.

Loans to employers have been limited to \$50,000 per employer, to allow maximum employer participation. Moneys received in repayment of these loans are required to be deposited in the state general fund.

Your Committee has further amended the bill by increasing from \$12,000,000 to \$19,000,000 the appropriation to be made for the employment program proposed by this bill. The requirement of a supplemental budget request to be prepared by the director of labor and industrial relations has been deleted. The effective life of the bill has been amended to be from the effective date of the bill upon its enactment, to June 30, 1977.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2745-76, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2745-76, S.D. 1.

Signed by all members of the Committee except Senators Young and Henderson.

SCRep. 416-76      Ways and Means on S.B. No. 2827-76

The purpose of this bill is to appropriate moneys for the repair and maintenance of state-owned or controlled properties.

Your Committee finds that it is the responsibility and obligation of the State to repair, maintain, and renovate its public buildings and facilities. In addition, your Committee finds that the present lapse in the state economy has raised the unemployment rate for the construction industry to twice that of the work force as a whole.

Your Committee has, therefore, amended this bill to provide the necessary funds to fulfill the government's responsibility for the maintenance, repair, and renovation of public buildings and facilities by contracting with private firms in the construction industry to perform these services. To effect this, your Committee has appropriated \$20,000,000 as follows:

- (1) \$11,782,652 to the department of accounting and general services,
- (2) \$2,507,961 to the Hawaii housing authority,
- (3) \$3,866,000 to the department of health, and
- (4) \$1,843,387 to the University of Hawaii.

Of the amount appropriated to the department of accounting and general services, your Committee requests the comptroller to use \$100,000 for the purpose of repairing and renovating the Marks estate--Kaahaaina. Members of your Committee have visited the estate and were very impressed with its lovely setting, the grounds, and the building itself. The estate seems desirable for a governor's mansion. The comptroller is requested to report to the next legislature on the feasibility and desirability of using the Marks estate as a governor's mansion. In preparing the report, the comptroller should consult with present and past governors and first ladies.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2827-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2827-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Young and Henderson.

SCRep. 417-76      Legislative Management

Informing the Senate that S.C.R. Nos. 75 and 76, S.R. Nos. 303 to 314 and Stand. Com. Rep. Nos. 418-76 to 454-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 418-76 Human Resources on S.C.R. No. 54

The purpose of the Resolution is to approve the report entitled, "A REPORT OF FINDINGS ON ADJUSTMENT TO THE COMPENSATION PLAN," submitted by the personnel directors of the State and Counties.

Your Committee finds that having met in joint conference, all the personnel directors of the State and Counties have studied and reviewed the pay plans for civil service employees, a report of the Compensation Plan, the decisions for the Public Employees Compensation Appeals Board, and other relevant data, and have submitted their report.

Your Committee further finds that the purpose of the report is to review the Compensation Plan which seeks to establish a sound and equitable plan that will assure government employees fair and reasonable compensation for the work they perform, in a manner consistent with a competitive position within the community. The objective being to maintain a proper relationship between classes of positions within and between jurisdiction based on systematic job evaluations. The approved and adopted guidelines recommended by the Conference would apply to both Blue and White Collar classes.

Your Committee on Human Resources is in accord with the intent and purpose of S.C.R. No. 54 and recommends that it be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 419-76 Human Resources on S.R. No. 214

The purpose of this resolution is to request the State Committee on Aging, or if created, the Executive Office on Aging, to review the performance of day care centers for elderly and disabled persons in Hawaii and technical assistance in securing alternative funding sources.

Your Committee finds that day care centers for the elderly and disabled have demonstrated their value by providing an alternative placement therefore preventing or postponing institutionalization.

Furthermore, your Committee finds that day care centers in Hawaii are reported to receive funds from a variety of sources including Title XX of the Social Security Act, private fees, foundation grants, and legislative appropriations. Your Committee recognizes that there are other potential sources of funding such as the National Institute of Mental Health, Title XIX of the Social Security Act, and the Older Americans Comprehensive Services Amendments of 1973, that can be obtained for future use.

Your Committee has amended the resolution by specifically inviting the elderly day care centers such as the Salvation Army Center, Malama Makua, and the Wilcox Day Care Center to inform the appropriate committee of the Legislature of their funding and program patterns.

Your Committee has further amended the resolution by including the State Commission on Aging, or if created, the Executive Office on Aging and the State departments of Social Services and Housing and Health, together with other State and community agencies responsible for such program to assist in securing alternate funding sources for these elderly day care centers.

Your Committee on Human Resources concurs with the intent and purpose of S.R. No. 214 as amended herein, and recommends that it be adopted as S.R. No. 214, S.D. 1.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 420-76 Human Resources on S.B. No. 1864-76

The purpose of this bill is to remove Section 304-22 which was intended to insure that the Department of Public Instruction would not discriminate in its treatment of Normal School graduates already employed, from the Hawaii Revised Statutes.

Your Committee finds that the Normal School (teachers college) was merged with the University of Hawaii in 1931. Your Committee also finds that this legislation was designed to care for students and graduates of the Normal School who might be caught in the transition.

Your Committee feels that since the enactment of Sec. 304-22, 45 years have passed

and there is a very slim possibility that there are any individuals remaining in service who requires such transitional protection.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1864-76 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 421-76 Human Resources on S.B. No. 2227-76

The purpose of the bill is to include all the staff of the Legislative Branch of the State and the Counties in an appropriate bargaining unit except for the employees of the Legislative Auditor and Legislative Reference Bureau who shall continue to be excluded from coverage under the Act.

Your Committee finds that under the present law, the staff of the Legislative Branch of the State, City and County of Honolulu and Counties of Hawaii, Maui, and Kauai, are excluded from being members of an appropriate collective bargaining unit.

Your Committee has amended the bill to exclude all the staff of the Legislative Branch of the State, the staff of the Legislative Branch of the City and County of Honolulu and the Counties of Hawaii, Maui, and Kauai, and to include the staff of the Clerks Office of the City and County of Honolulu and the Counties of Maui, Hawaii, and Kauai in an appropriate collective bargaining unit.

Your Committee finds that the responsibility of the Clerks Office is to handle elections and has no direct relationship to the Legislative functions. In the Counties of Maui, Hawaii, and Kauai, the personnel of the Clerks Office is included in an appropriate collective bargaining unit.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2227-76 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2227-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 422-76 Human Resources on S.B. No. 2409-76

The purpose of the bill is to include policemen into the present law which covers firefighters and sewer workers for service connected occupational disability retirement due to heart and lung disease resulting from exposure to inhalation of smoke, toxic gases, chemical fumes and other toxic vapors.

Your Committee finds the justification presented in the present statutes for firefighters and sewer workers, are also applicable to police officers. Your Committee also finds that when an emergency occurs, the police are usually the first on the scene and are exposed to the same toxic and smoke elements in the air as firefighters and sewer workers.

Your Committee further finds that exposure to fire and smoke when evacuating any occupants of a burning building and exposure to the handling of traffic and crowd control without the aid of the proper equipment, makes the policeman more susceptible to respiratory ailments.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2409-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 423-76 Human Resources on S.B. No. 2819-76

The purpose of this bill is to delete the requirement to establish a compensation plan by statutes for professional and technical employees (Category B) who are exempted from the coverage of chapters 76 and 77.

On February 11, 1976, a report concerning a compensation plan for Category B employees was submitted by the Director of Personnel Services to the Legislature for its information and consideration. In this report, what was recommended was an alternative of not establishing any compensation plan through legislation due to the small number of employees (6) who are determined to be exempted from coverages of chapters 76 and 77. Further, it is felt more practical to administer employment of this nature under annual personal

services contract than to establish a compensation plan. Establishment of a compensation plan by statutes would create a system which would be cumbersome, inflexible, inefficient, and out of mode with collective bargaining.

This bill would take the employees of Hawaii Public Television off the University of Hawaii's APT salary schedule, and instead provide for annual employment contracts.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2819-76 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 424-76 Human Resources on S.B. No. 2027-76

The purpose of this bill is to authorize the establishment of rules and regulations to cover those cases when an earlier or later effective date of reallocation would more appropriately reflect the actual change in work assignment.

Presently, the statute provides that reallocations be made effective retroactively to the beginning of the pay period immediately following the date the request for reallocation was filed with the Director of Personnel Services. The specificity of the language does not permit the use of more appropriate effective dates as circumstances warrant.

For example, a department submitted a reallocation request on January 15, 1976 covering certain positions. Assuming that the Department of Personnel Services reallocated these positions, the effective date of the action under present statutory provision would be January 16, 1976. However, in the process of responding to the request it was discovered that the originating department overlooked other similar positions that should have been included in the original request. Hence, following the present statutory language would result in the overlooked positions being reallocated at a later effective date. Under the bill, such positions would be treated in the same manner as those positions covered under the original request.

Another example, a department submitted a reallocation request on January 15, 1976 to the Department of Personnel Services in anticipation of assigning new duties and responsibilities to an employee. However, in the process of auditing the position, it is found that the employee had not yet assumed the new duties and responsibilities. Hence, the employee would be compensated under the present statutes from January 16, 1976 although he may not have assumed the new duties and responsibilities until a substantially later date. Under the bill, the effective date of reallocation could be adjusted to coincide with the date the employees assume the new duties and responsibilities.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2027-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 425-76 Human Resources on S.B. No. 2329-76

The purpose of this bill is to increase the compensation of substitute referees employed by the Department of Labor and Industrial Relations from \$40.00 a day to Step G of the SR-26 salary range which is equivalent to \$78.48 a day.

Your Committee finds that the referee's position was established in 1941 with the rate of compensation at \$20.00 a day. In June 1963 the compensation rate was increased to \$40.00 a day, where it still remains. The department is regularly staffed with one full-time referee at a salary range of SR-26. The current salary range for SR-26 at Step G is \$78.48 a day. The duties of the full-time and substitute referees are identical.

Your Committee believes this bill would support the concept of equal pay for equal work. Your Committee further believes that this bill would help to maintain the attractiveness of the position of substitute referee to qualified individuals.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2329-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 426-76 Human Resources on S.B. No. 2330-76

The purpose of this bill is to eliminate the possible conflict of interest on the part of the Office of the Attorney General and attorneys employed on a full-time basis by the Hawaii Public Employment Relations Board.

Your Committee finds that the language contained in Section 103-3, Hawaii Revised Statutes, which covers employment of attorneys, could possibly cause a conflict of interest for the attorneys of HPERB. The present statutes state that "every attorney employed by any department on a full-time basis shall become a deputy attorney general." In cases brought before HPERB, in which the state is party, the deputy attorney general represents the governor, and HPERB attorneys provide counsel for HPERB. However, when HPERB issues a decision which is adverse to the state, the decision is appealed to the Circuit Court by the state and at that level of litigation, the deputy attorney general and the attorney for HPERB are on opposing sides on the same case. A conflict of interest could be cited because of the fact that both sides will be represented by the same law firm in litigation. Under the provisions, HPERB attorneys could be regarded as deputy attorney generals because of their full-time status.

Your Committee feels that the enactment of S.B. No. 2330-76 will remedy this potential conflict of interest.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2330-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Senate except Senator F. Wong.

SCRep. 427-76 Human Resources on S.B. No. 2562-76

The purpose of this bill is to release certain employees of the Kauai Veterans Memorial Hospital from the obligation to repay the government for errors made in the payment of standby pay to them under the various collective bargaining agreements.

Your Committee finds that these errors occurred in the early days of collective bargaining under the first agreements and the standby provision were subject to different interpretations. After using one interpretation, the management of Kauai Veterans Memorial Hospital was told that their interpretation was wrong and the employees were told that they would have to repay all the money paid to them in error.

Your Committee further finds that it was not the employees fault and it will be a great burden on them to repay the money at this late date and it would have an adverse effect in their morale.

Your Committee has amended the bill to refer to various collective bargaining agreements rather than to rules of the Department of Personnel Services.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2562-76 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2562-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Senate except Senator F. Wong.

SCRep. 428-76 Human Resources on S.B. No. 2647-76

The purpose of this bill is to establish procedures for the appointment of the Manpower Planning Administrator by the Director of the Department of Labor and Industrial Relations with the concurrence of the State Manpower Services Council. This bill further provides that the position will be exempt from civil service provisions.

Your Committee finds that the Manpower Planning Administrator heads the Office of Manpower Planning which was established on October 1, 1974 by the Governor. The Comprehensive Employment and Training Act (CETA) of 1973 necessitated the creation of an Office of Manpower Planning to administer CETA programs. Your Committee further finds that presently, the Manpower Planning Administrator is appointed by the Governor.

Your Committee believes that the Office of Manpower Planning should be headed by an individual who is in harmony with the philosophies, policies and political persuasion of the Governor of the State and the State Manpower Services Council. This bill would provide the procedure needed to ensure the selection of such an individual and to establish

a compensation rate which would be equitable with other positions of comparable responsibility and stature in the service of the State government.

Your Committee on Human Resources is in accord with the intend and purpose of S.B. No. 2647-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 429-76 Human Resources on S.B. No. 2653-76

The purpose of this bill is to amend Chapter 346, Hawaii Revised Statutes, to conform with federal statutes and regulations, and to be consistent with the legislative intent of previous amendments to this chapter. The specific amendments proposed in the bill and your Committee's recommendations are as follows:

a) Repeal of Section 346-28 Transportation: The item of transportation allowance has been fairly averaged and fairly priced into the monthly standard allowance and thus is no longer necessary as a special item. Pursuant to Act 145, the increase in the flat grant monthly standard allowance effective July 1975 incorporated the item of transportation.

b) Section 346-29 Applications for public assistance; manner, form, conditions: The bill amends the definition of "net income" with regard to the Department's determination of need, by providing that "net income" for all cases shall be such income as the Social Security Act or other federal acts may require. The proposed amendment would allow the State to conform to federal statutes and regulations on an on-going basis, as well as allow for uniform application of the federal definition of income for all public assistance cases.

The bill would further amend this section by adding a subsection which provides for determination of income and income disregards by the Department, for the general assistance program. Your Committee finds that the establishment of general assistance program policy with regard to income necessary, but does not favor allowing the Department the discretion proposed by this amendment. Your Committee recommends amending the bill by deleting this subsection.

The bill amends subsection (5) of section 346-29 by designating the responsibility for defining "liquid assets" to the Department. This section presently does not define or delegate the duty to define this term. Your Committee recommends that the bill be amended to specify that the Director of the Department of Social Services shall adopt rules to define "liquid assets" pursuant to Chapter 91.

c) Section 346-53 Determination of amount of assistance: The bill would repeal subsection (c) of section 346-53 which deals with public assistance to children living in the homes of non-needy relatives. Currently, the statute does not provide for payment of the shelter allowance in behalf of these children. This section was invalidated by the Supreme Court decision which prevents a state from presuming the availability of income for any recipient in federal categorical assistance programs.

Your Committee does not favor the repeal of this section and recommends that the bill be amended by adding a provision that the Department shall pay for shelter allowance on behalf of these children.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2653-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2653-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 430-76 Human Resources on S.B. No. 2715-76

The purpose of this bill is to convert exempt positions to civil service status with the exception of the manager, deputy manager, and persons hired on contract or as otherwise provided in section 190-3, Hawaii Revised Statutes, which deals with the stadium special fund.

Your Committee finds that under the existing law, employees of the stadium authority are exempt from the provisions of chapters 76 and 77 which deals with the civil service and compensation laws. Your Committee also finds that it was intended, in granting the exemption, to render the Authority the flexibility to quickly formulate an effective

working staff in its formative phase of operation. Since the completion of the stadium, they have a full complement of employees and these employees should have the same rights and benefits as other employees of the State.

Your Committee has amended the bill to include that all employees affected by this measure, be placed into the proper classification and pay plans to insure that uniformity is maintained. The purpose of this amendment is to state clearly in the present statutes, that civil service status applies only to full-time employees and those converted to civil service status shall receive at least their present pay rate.

Your Committee has further amended the bill by stating that the act shall take effect on January 1, 1977.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2715-76 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2715-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 431-76 Human Resources on S.B. No. 2747-76

The purpose of this bill is to amend Chapter 387, Hawaii Revised Statutes, which deals with the Hawaii Wage and Hour Law, by excluding a seasonal youth camp staff member in resident situations in youth camps from coverage of the minimum wage law.

Your Committee finds that camping provides a child with a knowledge of camping skills, knowledge and wise use of the environment, and a chance to improve physical and social skills. Camp staff members live within the camp for a duration of the camping period and are generally on duty 24 hours a day because of their responsibility for the safety and well-being of the campers. In such instances, it is difficult to determine hours of work and whether all conditions are under the control of the employer. Your Committee further finds that if such camp staff members are not exempt from the minimum wage law, youth camp organizations would be unable to pay their employees and thus force the camp to close.

Your Committee has amended the bill by deleting the word "seasonal" to ensure that youth camps which provide year-round activities are also covered under this bill. Your Committee has further amended the bill by confining exemption from the minimum wage law to youth camps sponsored by charitable, religious, or nonprofit organizations exempt from income tax under section 501 of the federal Internal Revenue Code or to youth camps accredited by the American Camping Association.

Your Committee finds that many of the youth camps are sponsored by charitable, religious, or nonprofit organizations and it is sometimes difficult to determine hours of work and whether a worker is an employee or a volunteer. Your Committee further believes that these amendments will enable public and private youth camps which provide seasonal or year-round activities to continue their valuable services to the community.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2747-76, as amended in the form attached hereto as S.B. No. 2747-76, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 432-76 Judiciary on S.B. No. 2709-76

The purpose of this bill is to amend certain portions of Chapter 334, Hawaii Revised Statutes, relating to "Mental Health, Mental Illness, Drug Addiction, and Alcoholism." This action has been made necessary by the February 24, 1976, U.S. District Court decision which declared unconstitutional Sections 334-51 (a) (2) and (5), 334-53, 334-54 (f), 334-71 (a), and 334-73, Hawaii Revised Statutes. In addition, Sections 334-76, 334-81 and 334-84, Hawaii Revised Statutes, had to be amended because Judge Samuel P. King stated that said Sections, "as written and as applied, were in violation of the Due Process Clause of the Fourteenth Amendment."

Your Committee finds that other recent State, Federal and Supreme Court decisions have required clarification of procedures to conform to due process requirements for involuntary civil commitment.



Your Committee on Judiciary concurs with the findings of your Committee on Health in Standing Committee Report No. 286-76.

Your Committee upon consideration of this bill recommends the following amendments:

(1) Rearrange the definitions in Section 334-1, Hawaii Revised Statutes, in alphabetical order.

(2) Add the definition, "'Treating psychiatrist" means a licensed physician who practices in the specialty of psychiatry and who has the responsibility for the ongoing treatment of patients.'

(3) Delete subsection (b) as found in lines 3 to 8 on page 12.

(4) Delete the following words "rational and informed decision and has consented" in lines 4 and 5 on page 13, and insert in lieu thereof the following words "knowing and voluntary."

(5) Add the following words "the certificate of" between the words "by" and "a" in line 23 on page 14.

(6) Add the following sentence "The certificate must be executed within 48 hours prior to admission." after the word "physician" in line 23 on page 14.

(7) Delete the words "family court psychiatrist or psychologist" and insert the words "licensed physician" in line 1 on page 15.

(8) Delete the words "admission" and "upon approval by the family court" in lines 2 and 3 on page 15.

(9) Delete the words "and there are no less restrictive alternatives to hospitalization" in lines 7 and 8 on page 15.

(10) Add the words "or others" between the words "himself" and "and" in line 8 on page 16.

(11) Delete the words "or psychologist" in lines 3 and 7 on page 17.

(12) Delete the word "form" in line 15 on page 17.

(13) Amend the word "self-discrimination" to "self-incrimination" in line 17 on page 17.

(14) Delete subsection (h) and insert the following: "(h) If the treating psychiatrist requests an examination of the patient to make a determination if the patient is mentally disordered and dangerous to himself or others, the family court shall appoint an examining psychiatrist or psychologist in a nonemergency situation to make the examination."

(15) Delete the words "or psychologist" in lines 6, 8, and 9 on page 18.

(16) Delete the words "form voluntary consent to" and insert in lieu thereof the words "grant consent or declines voluntary" in line 4 on page 19.

(17) Add the words "treating psychiatrist or the" between the words "the" and "examining" in line 19 on page 19.

(18) Amend the word "shall" to "may" in line 20 on page 19.

(19) Delete the word "and/" in line 23 on page 20.

(20) Delete subsection (f) in lines 2 to 6 on page 21.

(21) Delete the words "who may also act as attorney for the child, if an attorney is appointed by the court" in lines 15 and 16 on page 21.

(22) Delete the words "has a" and insert in lieu thereof "shall have the" in line 19 on page 21.

(23) Add a new subsection "(b) The patient shall have the right to an examination by an examining psychiatrist or psychologist of his own choice." in line 22 on page 21.

(24) Add a new subsection "(d) Evidence of treatment goals and plans for their achievement shall be presented to the courts." in line 10 on page 22.

(25) Delete the words "based on evidence beyond a reasonable doubt" in line 11 on page 22.

(26) Add the following two new sections to Part III on page 22.

"Sec. 344- Right of Appeal. Any aggrieved person may appeal to any circuit court judge designated by the Chief Justice of the Supreme Court.

Sec. 344- Compensation. Any licensed physician, psychiatrist or psychologist requested by the court to testify or examine a person within the meaning of this chapter shall receive adequate compensation."

(27) Delete the following sentence "An administrative hearing pursuant to chapter 91 of the Hawaii Administrative Procedures Act shall be held for any and all transfers from one circuit in the State to another including any transfer within any psychiatric facility that would result in a greater limitation of the patient's freedom." in lines 12 to 16 on page 23, and add the following words after the word "transfer" in line 12 on page 23 "which shall state that the patient or anyone on his behalf may petition the family court to protest the transfer. A hearing shall be held for all transfers from one circuit to another circuit in the State."

(28) Amend the word "attractive" to "restrictive" in line 3 on page 27.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2709-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto, as S.B. No. 2709-76, S.D. 2.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 433-76 Judiciary on S.B. No. 511

The purpose of this bill is to amend the existing definition of the word, "pornographic," contained in section 712-1210 of the Hawaii Penal Code.

Any material or performance is defined as pronographic by this bill if (a) the average person, applying contemporary community standards would find that the material or performance, taken as a whole, appeals to the prurient interest; (b) the material or performance depicts or describes sexual conduct in a patently offensive way; and (c) the material or performance taken as a whole, lacks serious literary, artistic, political, or scientific value.

Your Committee is in accord with the intent and purpose of S.B. No. 511 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 434-76 Judiciary on S.B. No. 2082-76

The purpose of this bill is to amend the existing law relating to the offense of prostitution by holding both parties engaged in an act of prostitution equally responsible for the offense. Any person who pays a fee to another to engage in sexual conduct commits the offense of prostitution.

Your Committee finds that the bill is necessary to provide equal protection under our laws and to regulate attacks upon the constitutionality of our existing prostitution statute.

Your Committee upon consideration of this bill recommends that it be amended for purposes of clarity. This bill inadvertently omitted the remaining provisions of Section 712-1200, Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2082-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2082-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators O'Connor and F. Wong.

SCRep. 435-76 Judiciary on S.B. No. 2958-76

The purpose of this bill is to clarify the right of recovery of an injured person where there are two or more defendants under the existing comparative negligence law.

Under the existing law, an injured person's contributory negligence does not bar his right to recovery of damages against the wrongdoer unless the injured person's negligence is greater than (51 per cent) the negligence of the wrongdoer.

An ambiguity exists under the existing law where there are two or more defendants, whose aggregate negligence is more than the negligence of the injured person, but separately is less. For example, if the injured person's negligence was 40 per cent and if there were two defendants, each of whose negligence was 30 per cent (or 60 per cent aggregate), a question arises as to whether the injured person may recover under the existing law.

Your Committee feels that where there are two or more defendants, the percentage of negligence of the injured person should be compared against the total of the percentage of all wrongdoers rather than against each one of them individually. Your Committee finds that this is the most fair and equitable position.

Your Committee upon consideration of this bill recommends that it be amended by deleting the words, "equal to or" in line 10 on page 2. In 1975 the Legislature amended Section 663-31(a), Hawaii Revised Statutes, by deleting the words "equal to or" to bar a claim by the plaintiff only if his negligence was greater than the negligence of the defendant. The Legislature inadvertently failed to delete the words "equal to or" in Section 663-31(c), Hawaii Revised Statutes, in 1975.

Your Committee further recommends that the bill be amended for technical reasons. Section 1-17, Hawaii Revised Statutes, states that the singular includes the plural.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2958-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto, as S.B. No. 2958-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 436-76      Judiciary on H.B. No. 449

The purpose of this bill is to permit all holders of valid drivers licenses from other States and the provinces of Canada to drive in Hawaii without being required to obtain a Hawaii license until their license expires or is otherwise declared invalid.

Under present law, holders of drivers licenses from non-Driver License Compact States are required to apply for a license within 90 days of residency in Hawaii as their licenses are only valid for that period of time. Holders of licenses from non-Driver License Compact States do not have to obtain a Hawaii license until their present license expires.

This bill would eliminate this inequity. It would also eliminate the situation whereby a former Hawaii resident, who had to obtain a non-compact State license, from having to obtain a new Hawaii license, until expiration of his present license.

It would require, however, the testing of drivers of vehicles heavier than the normal automobile such as trucks, buses, etc. even though the driver possessed a valid out of State license.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 449, 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 Senator F. Wong.

SCRep. 437-76      Ways and Means on S.B. No. 1328

The purpose of this bill is to compile present laws regarding odometers which are scattered among the Hawaii Revised Statutes, and place them in one chapter, provide adequate enforcement powers to the director of weights and measures, clear up ambiguities between federal and state law, and provide civil relief to aggrieved parties.

Your Committee has amended the bill to require at section 292-7(1)(c), Hawaii Revised Statutes, intent to defraud in addition to operation of the vehicle knowing the odometer to be disconnected in order to fall within the statute, and amended section 292-11, Hawaii Revised Statutes, to provide that the revolving fund shall be temporary, to set up the program, rather than permanent, and the funds therein shall revert to the general fund on July 1, 1981.

Your Committee, in addition to certain technical changes of style, has set out in full and repealed sections 291-38 and 476-35.1, and added an appropriate Ramseyer section.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1328, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1328, S.D. 3.

Signed by all members of the Committee except Senator Hara.

SCRep. 438-76      Ways and Means on S.B. No. 1834-76

The purpose of this bill is to enact certain changes in the Fishing Vessel Loan Program for purposes of clarification.

Among the changes the bill provides include size qualifications to distinguish between "large" and "small" fishing vessels for purposes of clarifying the existing statute: Large fishing vessels are defined as any vessel five net tons or over, and small fishing vessels are defined as any vessel under five net tons. The bill proposes to further clarify the statute by incorporating the terms "large" and "small" into the program titles and purposes. A third change seeks to provide small fishing vessel owners with the identical financial assistance provided to large fishing vessel owners by expanding the Hawaii Commercial Fishing Vessel Maintenance and Repair Loan Program to include purchase, construction, and renovation as qualifying for financial assistance. The fourth change corrects an apparent oversight by empowering the Department of Planning and Economic Development to adopt rules and regulations pursuant to the administration of the Fishing Vessel Loan Program. Moreover, a final change seeks to eliminate possible confusion regarding the annual report requirement by providing that the report shall be due by February 1 for the prior year's operation.

Your Committee has placed a reference in section 189-24(5) and 189-44(5) to the Administrative Procedure Act. Your Committee has amended section 189-41 to ensure that the purpose section of the Hawaii Fishing Vessel Loan Program, limited by this bill to small vessels coincides with the new purpose of the program.

Your Committee notes that the interest rate allowed under the Hawaii Small Fishing Vessel Loan Program is only five and one-half per cent, while the rate allowed under the Large Fishing Vessel Purchase, Construction, Renovation, Maintenance, and Repair Loan Program is seven and one-half per cent. Your Committee has therefore increased the interest rate for loans under the Small Fishing Vessel Loan Program to seven and one-half per cent so that the programs may be administered equally and the interest rate will be aligned with rates elsewhere.

Your Committee has also corrected certain style and typographical errors in the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1834-76, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1834-76, S.D. 2.

Signed by all members of the Committee except Senator Hara.

SCRep. 439-76      Ways and Means on S.B. No. 1892-76

The purpose of this bill is to require a governmental agency to purchase products of, and services performed by, non-profit corporations and public agencies operating rehabilitation facilities for the physically and mentally handicapped in Hawaii.

Your Committee finds that this bill will provide more employment opportunities for the handicapped. In this period of normalization when a great number of people are being de-institutionalized and being returned to the community, it is imperative that the system of rehabilitation include progressive work experience starting when work activity programs such as those encouraged by this bill. This bill will benefit approximately 2,000 handicapped persons served annually in ten sheltered workshops plus six satellites throughout the State.

Your Committee has amended this bill by making certain technical corrections.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. 1892-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1892-76, S.D. 2.

Signed by all members of the Committee except Senator Hara.

SCRep. 440-76 Ways and Means on S.B. No. 2394-76

The purpose of this bill is to establish a means of organizing development resources for creation of balanced residential and mixed use communities in neighborhoods of the State with substantial potential for improved community development.

This bill establishes a Hawaii Community Development Corporation to carry out its purposes. The corporation is created as a corporate governmental body of the State, with comprehensive powers to plan and implement a community development program in areas designated by the legislature as community development districts. The corporation established is permitted to buy, sell, lease, or otherwise dispose of lands; develop projects on its own, or in cooperation with other public agencies, or in cooperation with private businesses, firms, landowners, or developers.

Three hundred million dollars is established as the maximum limit in outstanding issues of bonds for this program.

The Kakaako area of Honolulu is designated as the first community development district to be planned and redeveloped by the Hawaii community development corporation.

Your Committee recognizes the need for a community development program in Kakaako and other areas similarly situated, and finds that this bill provides a suitable vehicle to accomplish that purpose.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2394-76, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 441-76 Ways and Means on S.B. No. 2572-76

The purpose of this bill is to permit the counties to tap a new resource of financing for short-term investments, usually less than thirty days. In addition, the statutory language in section 46-50, Hawaii Revised Statutes, is updated to conform to current situations.

Your Committee has amended this bill by making certain technical corrections.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2572-76, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2572-76, S.D. 1.

Signed by all members of the Committee except Senator Hara.

SCRep. 442-76 Ways and Means on S.B. No. 2603-76

The purpose of this bill is to establish within the Office of the Governor a Council for Housing and Construction Industry.

The proposed council, composed of twenty-four members representing the administration, the legislature, the county governments, and the various elements of the housing and construction industry, would survey the statewide needs for housing and suggest means of overcoming difficulties in meeting these needs through an examination of the governmental structure, activities and strictures, as they relate to housing. In addition the council would provide research and analysis in the area of innovative building materials, analyze the existing mortgage financing structure and recommend means to help assure the maintenance of a viable market, establish a clearing house of information for the housing and construction industry, report its findings and activities in an annual report to the governor and legislature, and recommend specific administrative changes and legislative proposals.

Your Committee has amended the bill by designating an advisory role for the council and by deleting the provision in the bill which would allow the council to appoint an executive director and staff. Your Committee has also deleted the appropriation clause. Your Committee finds that the objectives of the bill can be adequately accomplished by an advisory body without a permanent staff.

Your Committee has further amended the bill by removing possible unconstitutional provisions in the bill relating to the appointment of ex-officio legislator members of the council, and by requiring that other members of the council be appointed by the governor pursuant to section 26-34 and made certain other style and technical changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2603-76, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2603-76, S.D. 1.

Signed by all members of the Committee except Senator Hara.

SCRep. 443-76 Ways and Means on S.B. No. 2992-76

The purpose of this bill is to amend chapter 209, Hawaii Revised Statutes, essentially to provide for:

1. Personal loans up to a maximum of \$5,000 to be made to disaster victims;
2. Increasing the interest rate for loans from 4 per cent to 6 per cent a year; and
3. Establishing a State Disaster Revolving Loan Fund in support of chapter 209.

Your Committee has amended the bill to appropriate \$500,000 to the disaster revolving fund established by the bill, as well as to require that the annual report to be filed by the rehabilitation coordinator be filed at least twenty days before the convening of each regular session of the legislature. Your Committee has also amended section 209-29(5) and (6) to insure that these paragraphs only apply to commercial loans. Certain technical amendments have also been made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2992-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2992-76, S.D. 2.

Signed by all members of the Committee except Senator Hara.

SCRep. 444-76 Ways and Means on S.B. No. 1553

The purpose of this bill is to prohibit the selling or dispensing of imitation milk in place of fresh milk in eating establishments unless the consumer is adequately informed of this substitution by proper labeling, and expand the authority of the Department of Health regarding imitation products.

Your Committee has amended this bill by deleting section 2 allowing the Department of Health to adopt rules consistent with federal standards to establish food standards for consumer commodities for certain listed areas. Your Committee feels that this is a matter which requires further study as in some of the areas listed, even the federal government has not developed standards.

Your Committee has also deleted the appropriation as unnecessary. In enforcing the labeling of imitation products, the department can perform this function with available resources and personnel as one aspect of its present inspections of these eating establishments.

Finally, your Committee has renumbered sections 4 and 5 as sections 2 and 3 and made certain technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1553, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1553, S.D. 2.

Signed by all members of the Committee except Senator Hara.

SCRep. 445-76 Ways and Means on S.B. No. 1791-76

The purpose of this bill is to bring about greater participation by private lenders in extending credit to farmers. The bill proposes to allow the Department of Agriculture to establish maximum interest rates chargeable by private lenders for loans insured by the Department consistent with the lenders' going rate for similar loans.

The existing Farm Loan Act restricts the interest rate chargeable by private lenders to two per cent above the prime rate. Private lenders are often unwilling to participate when the maximum chargeable interest does not provide a reasonable yield. This lack of participation becomes more pronounced during times of "tight money". Presently, due to the restrictive interest ceiling placed on private lenders, activity under the insured loan program is practically nonexistent.

Your Committee feels that this bill will induce private lenders to extend credit to farmers more readily, and thus, ease the stress currently placed upon the Farm Loan Program of the Department of Agriculture.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1791-76 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 446-76 Ways and Means on S.B. No. 2706-76

The purpose of this bill is to encourage the formation and successful operation of small business investment companies (SBICs). The bill exempts SBICs from the state usury statutes by providing that loans by such companies shall be subject to interest rates established by the federal Small Business Administration. The bill further provides that such companies shall be taxed in the same manner as financial corporations such as banks and industrial loans companies and shall not be subject to corporate income taxes. The bill finally provides an exemption for the general excise tax for all activities of SBICs.

Your Committee finds that a general exemption of all the activities of a SBIC from the general excise tax would exempt rental and other non-SBIC activity, if engaged in. Therefore, your Committee has amended the general excise tax exemption to limit the exemption to income derived from activities engaged in as provided by the federal Small Business Investment Act of 1958, as amended, except for consulting and advisory services allowed under that Act. This amendment equates SBICs with industrial loan companies which are presently engaged in similar activities.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2706-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2706-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 447-76 Ways and Means on S.B. No. 2932-76

The purpose of this bill is to provide for a twelfth judge for the District Court of the First Circuit primarily to hear landlord-tenant and small claims matters.

Your Committee finds that the traffic trials have been backlogged 90-100 days because one District Court judge must be assigned to hear landlord-tenant and small claims matters. The addition of another judge to the complement of the District Court of the First Circuit would enable that Court to bring its trials to a more current basis. Furthermore, uniformity in decisions in landlord-tenant cases will hopefully be achieved by the passage of this bill. To achieve that uniformity, your Committee recommends that the twelfth judge submit written decisions in appropriate cases. This bill anticipates a request for a twelfth judge which the Department of the Judiciary had planned to make in its 1977-79 budget request.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2932-76, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 448-76 Ways and Means on S.B. No. 1833-76

The purpose of this bill is to increase the simple interest each loan made under the Hawaii capital loan program may bear from five and one-half to seven and one-half per cent.

The Hawaii capital loan program was enacted to provide loans at reasonable rates to small business concerns that were unable to obtain financial assistance from other financial institutions at reasonable terms and to complement the assistance provided by the United States Small Business Administration (SBA). The interest rate of five and one-half per cent a year set in 1963 conformed with the then current SBA rate; however, the SBA has increased its rate to six and five-eighths per cent and your Committee finds that the interest rate for the Hawaii capital loan program should also be increased. The rate of seven and one-half per cent is in line with current money rates and with the rate for the Fishing Vessel Purchase, Construction, Renovation, Maintenance and Repair Loan Program, which was increased from five and one-half per cent to seven and

one-half per cent in 1975.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1833-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 449-76 Ways and Means on S.B. No. 2467-76

The purpose of this bill is to allow an income tax credit for individual and corporate resident taxpayers for 10 per cent of the cost of a solar energy device. The tax credit is to be claimed against the net income tax liability for the year in which the solar energy device was installed provided the solar energy device was erected and placed in service after December 31, 1974 but before December 31, 1978.

The bill also provides a real property tax exemption for all property actually used as a solar energy device, not including a building or its structural components, except where the solar device is incorporated into the building and then only that part of the building necessary to such improvement. Property tax exemption shall be granted for solar devices which are erected and placed in service after June 30, 1976 but before December 31, 1978.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2467-76, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 450-76 Ways and Means on S.B. No. 2654-76

The purpose of this bill is to repeal Act 176, SLH 1937 which appropriates funds for free beds at the Kapiolani Maternity and Gynecological Hospital. Act 157 is an obsolete law which has since been superseded by the federal Medicaid program and which is no longer being utilized.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2654-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 451-76 Ways and Means on S.B. No. 2736-76

The purpose of this bill is to amend section 107-11, HRS, to give the Comptroller discretionary authority to set reasonable fees for parking on all State lands within his jurisdiction. Existing laws can be interpreted to indicate that the Comptroller must set uniform parking fees for all these lands. This language is overly restrictive and does not make allowance for different situations and conditions. This bill will allow the Comptroller greater administrative flexibility.

Your Committee has amended this bill by making certain technical corrections.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2736-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2736-76, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 452-76 Ways and Means on S.B. No. 1760-76

The purpose of this bill is to make a number of amendments to Chapter 516, Hawaii Revised Statutes, to facilitate the ability of residential lessees to purchase the fee simple interest in their houselots, through the Hawaii Housing Authority.

Your Committee is in agreement with the findings of your Committee on Housing and Hawaiian Homes in Standing Committee Report No. 265-76 dated March 8, 1976.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1760-76, S.D. 1, and recommends that it pass Third Reading.



Signed by all members of the Committee except Senator O'Connor.

SCRep. 453-76 Ways and Means on S.B. No. 2602-76

The purpose of this bill is to exempt from income taxation sales of developed single-family residential land, where such sales are made by organizations exempt under section 501(c)(3) or treated as an estate or trust under Subchapter J of the Internal Revenue Code, and where sales are made to lessees of such residential lands.

Your Committee finds that such sales should be treated as involuntary conversion of property, and not as sales of property in the ordinary course of business, since such sales generally take place only pursuant to the threat or exercise of eminent domain by the Hawaii housing authority under chapter 516, Hawaii Revised Statutes. Due to the important public purposes served by chapter 516, your Committee determines that taxation should not be a barrier to increasing fee simple home ownership in the State.

Your Committee has amended this bill to specify a twenty-five year period under the proposed subsection 235(a)(3).

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2602-76, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2602-76, S.D. 1.

Signed by all members of the Committee.

SCRep. 454-76 Intergovernmental Relations on S.B. No. 2348-76

The purpose of this bill is to allow any person to obtain a special permit to receive a shipment of liquor from outside the State either when the liquor is not otherwise available in the State, as an unsolicited gift, or as part of his household goods originally purchased for use outside the State.

Your Committee has heard testimony in general support of the bill, but said testimony pointed out the following problem areas:

1. The twenty-five (25) gallon limit on all types of liquor would be potentially harmful to retail liquor dealers here, and at the same time would be too restrictive on individuals importing their personal liquor collections. Furthermore, the twenty-five gallon limit could lead to serious abuse of the law, as the one gallon limit presently in effect is constantly abused.

2. The bill also has no provision allowing residents of Hawaii to receive unsolicited gifts.

Your Committee has amended the bill in the following respects:

1. The bill includes a provision authorizing receipt of gift shipments, but no more than 3.2 gallons in any one year.

2. The bill will allow any person to apply for permission to receive a shipment of not more than five gallons if he shows: (a) that the liquor is unavailable otherwise in the State, and (b) that the brand manufacturer would be willing to post prices pursuant to HRS 281-43 if channels for distribution in the State were available. The five-gallon limitation has been put on a yearly basis.

3. A person moving a liquor collection to this State would be generally subject to the same five-gallon limitation, but the Liquor Commission will have discretion to allow in a private collection of a larger quantity of wines or other beverages capable of aging, and originating from grapes and other fruits.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 2348-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2348-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 455-76 Legislative Management

Informing the Senate that S.C.R. Nos. 77 to 79, S.R. Nos. 315 to 327 and Stand. Com. Rep. Nos. 456-76 to 483-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 456-76 Judiciary on S.B. No. 1782-76

The purpose of this bill is to amend Chapter 521, Hawaii Revised Statutes, to protect the rights of the landlord and tenant under the Residential Landlord-Tenant Code.

Your Committee concurs with the findings of your Committee on Consumer Protection in Standing Committee Report No. 113-76.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1782-76, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 457-76 Judiciary on S.B. No. 679

The purpose of this bill is to amend Chapter 482E, Hawaii Revised Statutes, so as to conform the Hawaii Franchise Investment Law more closely to the laws of the other states.

Your Committee proposed the following amendments to the existing Hawaii Franchise Investment Law for the following reasons:

1. Definitions (Section 482E-2, Hawaii Revised Statutes)

Definition of "Franchise". This definition is drawn from the Michigan Franchise Investment Law enacted during 1974. This form of definition, which requires only the use of a marketing plan prescribed in the substantial part by the franchisor together with the payment of the franchise fee or, in the alternative, the use of the franchisor's trademark together with the payment of a franchise fee, will broaden the range of distributorships included within the scope of the franchise law. The traditional definition in state franchise laws has required both the marketing plan and trademark association criteria and the payment of a franchise fee.

Definition of "Pyramid or Chain Promotion". This definition is based on the definition of pyramid sales plans and chain distribution marketing plans contained in a number of state laws and a proposed federal law passed by the United States Senate and pending in the House of Representatives. It is included in conjunction with the authority granted by the proposed amendments to the Director of Regulatory Agencies to deny or revoke the registration of any franchise which constitutes a pyramid or chain promotion.

2. Registration of the Offer to Sell Franchises (Section 482E-3, Hawaii Revised Statutes)

The amendments proposed to said Section 482E-3(b) are to reflect the practice which has developed under state franchise laws relating to the submission of a short form application accompanied by an offering prospectus which contains the information to be disclosed to prospective franchisees. The states with franchise disclosure laws have found that the original pattern developed under the California Franchise Investment Law (an application requiring substantially the same disclosure as is contained in the offering prospectus) imposed an unnecessary compliance burden upon franchisors and unnecessarily burdensome review procedure upon the states.

The proposed amendment to Section 482E-3(b)(5) clarifies the period for which the disclosure required by said Section must be made.

The proposed amendment to Section 482E-3(b)(5)(C) clarifies that disclosure of Federal Trade Commission and other public agency orders are limited to those relating to the business which is the subject of the franchise.

The proposed amendment to Section 482E-3(b)(8) is simply for clarification purposes.

The proposed amendment to Section 482E-3(b)(18) reflects a similar amendment made to the corresponding section of the Washington Franchise Investment Protection Act, the original version of which contained an identical provision of said Section (the Hawaii Franchise Investment Law is virtually copied from the original version of the Washington law and did not reflect any amendments made thereto prior to the effective date of the Washington law).

The proposed addition of Section 482E-3(b)(25) is to provide statutory authority for the Director of Regulatory Agencies to accept registrations prepared in accordance with the Uniform Franchise Offering Circular Rules and forms.

The proposed amendment to Section 482E-3(c) is to provide standards for requiring the escrow or impoundment of franchise fees and other funds paid by the franchisee, to clarify that the escrow or impoundment order can apply to other funds as well as franchise fees, to provide to the franchisor the option of posting a satisfactory surety bond and to clarify that the escrow or impoundment of such funds may be continued by the Director of Regulatory Agencies until the obligations of the franchisor are fulfilled.

The proposed amendments to Section 482E-3(f) are for purposes of clarification.

### 3. Exemptions (Section 482E-4, Hawaii Revised Statutes)

The proposed amendments to Section 482E-4 would: (1) modify the existing exemption by eliminating the requirement that the franchisee invest \$100,000 or more, converting that situation into a separate independent exemption (Section 482E-4(a)(4)(B) and (C)); and (2) add two exemptions which were added to the Washington law, in the amendment made thereto prior to its effective date, (a) for franchisors that have and are offering fewer than ten franchises in Hawaii and do not advertise their franchises (new Section 482E-4(a)(4)(D)); and (b) for franchisors who do not require payment of a franchise fee in excess of \$1,500 per year and who do not advertise their franchises (new Section 482E-4(a)(4)(E)). With respect to each of the above exemptions full disclosure is required to be made to the prospective franchisee prior to his purchase of a franchise and the presale disclosure period has been increased from 48 hours to 7 days, which is the period of presale disclosure prescribed in the more recently enacted state franchise laws.

The proposed amendment to Section 482E-4(a)(4)(D) (new Section 482E-4(a)(4)(F)) would modify the presale disclosure required to be made by franchisors exempt from registration in the same manner as the disclosure required by franchisors who must register.

The proposed amendments to Section 482E-4 would also add exemptions for the extension or renewal of an existing franchise (new Section 482E-4(a)(7)), the offer or sale of a franchise by a franchisee for his own account (new Section 482E-4(a)(9)), the offer or sale of an additional franchise to an existing franchisee (new Section 482E-4(a)(8)) and the offer and sale of franchises by a franchisor domiciled in Hawaii where the prospective franchisee is not domiciled in Hawaii and the franchise business will not be conducted in that state (new Section 482E-4(a)(6)). Finally, the proposed amendments would give the Director of Regulatory Agencies the discretion to exempt franchise offerings in whole or part from the registration requirements of the Act (new Section 482E-4(c)).

### 4. General Provisions (Section 482E-5, Hawaii Revised Statutes)

The proposed amendment to Section 482E-5(c) is for purposes of clarification.

The proposed amendments to Section 482E-5(d) is for purposes of clarification and to extend the presale disclosure period from 48 hours to 7 days.

The proposed amendment to Section 482E-5(f) is to clarify that every franchisor offering or selling a franchise under an exemption from registration must file a consent to service of process.

### 5. Relationship Between Franchisor and Franchisee (Section 482E-6, Hawaii Revised Statutes)

The proposed amendments delete existing Section 482E-6 in its entirety and substitute a new Section 482E-6 which is drawn largely from corresponding provisions of the Michigan Franchise Investment Law. Adopting the approach taken by both Minnesota, which enacted a franchise law in 1973, and Michigan, certain provisions of a franchise relationship would, under the proposed amendment, be deemed to be unfair practices and as such would constitute additional grounds for the Director of Regulatory Agencies to deny or revoke the registration of the offer of a franchise. The practices which would, under the proposed amendment, constitute grounds for denial or revocation of registration include restrictions on the right of franchisees to join an association of franchisees or requirements that they do so, certain restrictive purchasing or leasing obligations imposed on franchisees, certain competition between the franchisor and its franchisees, any requirements that the franchisee agree to release or waive his rights under Chapter 482, certain rights of the franchisor to terminate or refuse to renew a franchise, certain discrimination between franchisees and the fact that the franchise constitutes a pyramid or chain promotion.

Eliminated by the proposed amendment are the numerous ambiguities contained in

Section 482E-6 as originally enacted and the private civil action afforded to franchisees thereunder. The ambiguous and ill conceived provisions of Section 482E-6 are the most objectionable provisions of the Hawaii law from the standpoint of franchisors, who fear that this Section will invite extensive litigation and introduce into the franchise relationship in Hawaii many years of uncertainty as to the legal rights of franchisors and their franchisees. Franchisors believe that unfair practices in the franchise relationship should be identified and defined in the statutes and should be made grounds for denial or revocation of registration of the franchise rather than the grounds for civil liability. Under the statutory scheme favored by franchisors, unfair practices can be eliminated at the time of registration for the benefit of all future franchisees and not await the outcome of uncertain litigation.

It should be noted that the existing Section 482E-6 is substantially identical to the corresponding section of the Washington law as originally enacted. As noted herein, that law was substantially amended prior to its effective date and the major part of those amendments was to the section on unfair practices. The proposed amendment to Section 482E-6 are similar to those made to the Washington law.

6. Registration of Franchise Broker or Selling Agent (Section 482E-7, Hawaii Revised Statutes)

The proposed amendments delete the existing Section 482E-7 in its entirety and substitute a new Section 482E-7 requiring franchisors subject to registration to identify all persons who will act as franchise brokers or selling agents either in their Offering Circular or in a separate form to be filed with the Director of Regulatory Agencies and containing extensive information. Franchisors favor this form of identification of brokers and salesmen over a registration procedure for several reasons. In the case of a great many franchisors, there are no salesmen other than persons who act in an executive capacity for the franchisor and who will be identified as such in the franchisor's Offering Circular. A registration procedure as to such persons is unnecessarily burdensome. Secondly, franchisors believe that registering salesmen potentially arms them with an authority which may be misused by unscrupulous salesmen in selling franchises to unsophisticated buyers. Franchisors believe that the identification system contemplated in the proposed amendment will give the Director of Regulatory Agencies the same information as is secured under a registration system and will enable him to enforce Chapter 482E, Hawaii Revised Statutes, with respect to brokers and selling agents to the same extent as with a registration system.

7. Duties of the Director (Section 482E-8, Hawaii Revised Statutes)

The proposed amendment to Section 482E-8(a)(6) is to clarify that the right to deny, suspend or revoke registration must be based on both the franchisor's failure to demonstrate adequate financial arrangements and capitalization and its inability or unwillingness to comply with an escrow or impound order.

The addition of Section 482E-8(a)(8) is in accordance with the proposed substitution of new Section 482E-6. It gives the Director of Regulatory Agencies explicit authority to deny, suspend or revoke registration if he determines that this is an appropriate action pursuant to Section 482E-6.

8. Civil Liability (Section 482E-9, Hawaii Revised Statutes)

The proposed amendment to Section 482E-9(a) is to eliminate from the scope of the civil remedies under said Chapter 482E the commission of unfair practices as defined in Section 482E-6 which, as explained herein, would become solely an administrative section.

The proposed amendment to Section 482E-9(c) eliminates the discretion of a court to increase damages up to three times actual damages sustained. Franchisors are strongly opposed to provisions for multiple damages in state franchise laws on the grounds that many of the potential violations of such laws are technical in nature and may be inadvertent. The closest analogy to state franchise laws are federal and state securities laws, which do not provide for multiple damages. The only state law which presently provides for multiple damages is the Washington Act and the provision providing for multiple damages therein has been a factor influencing a number of franchisors to suspend offers of franchises in that state, even after the substantial amendments to its law as originally enacted.

Your Committee upon consideration of this bill recommends the following amendments:

1. Add the words "exceeding \$100" after the words "fee" in line 17 on page 1 and in line 7 on page 2.

Most of the state laws exempt franchises even if there is a franchise fee; provided that the fee does exceed the sum of \$100.

2. Amend the definition of "pyramid or chain promotion" as follows:

"Pyramid or chain promotion" is any plan, scheme, or device for the continued expansion by a pyramid or chain process of distributorships or dealerships in which a participant gives a valuable consideration for the opportunity to receive compensation or things of value:

(1) in return for inducing other persons to become participants in the program, each of whom receives the same or similar right, privilege, license, chance or opportunity; or

(2) when a person introduced by the participant introduces one or more additional persons into participation in the program, each of whom receives the same or similar right, privilege, license, chance, or opportunity."

This amendment is to clarify the intent of the definition "pyramid or chain promotion" that a participant in a pyramid or chain promotion pay a valuable consideration either for the right to realize income for inducing other persons to become participants or when other participants induce others to become participants.

3. Add the words "or that the involvement in the offering of the franchise by a person identified in the offering circular or in a form filed with the director under section 482E-7" after the words "Section 482E-6" in line 23 on page 34.

This amendment is to give the Director of Regulatory Agencies more discretionary powers to issue stop orders denying effectiveness to or suspending or revoking the effectiveness of any registration if he finds the order is in the public interest.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 679, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 679, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 458-76      Judiciary on S.B. No. 1614

The purpose of this bill is to enact a Land Trust Act in the State of Hawaii.

A land trust is an arrangement under which title of record is held by the trustees, but at the same time all the rights and benefits of ownership are retained by the beneficiary. A land trust is evidenced by a recorded instrument where the real estate is conveyed to the trustee; and by an unrecorded trust agreement in which the terms and provisions of the trust and the rights and obligations of the parties are clearly defined.

In a land trust, the beneficiary retains complete control of the real estate and manages it himself, or he may employ agents to manage it for him. He collects and distributes income, he insures, develops, finances and directs the lease or sale of the property as he sees fit. He may terminate the trust at any time or add property to the trust as he wishes. Exclusive and full power in all such matters rests in the beneficiary. The trustee executes deeds, mortgages and leases and otherwise deals with title only upon written direction.

After title to real estate is held in a land trust, the interest of the beneficiary becomes personal property and he may assign that interest without the formality of executing and acknowledging a deed, and his spouse need not join in the subsequent assignment.

Some of the advantages derived from a land trust include the following: (1) limited liability under mortgages and other contracts, (2) simple succession of ownership, (3) protection against risks involved in joint ownership, (4) simplicity in conveyance of title, (5) protection against partition suits, (6) privacy of ownership, and (7) the right (where a group of owners is not considered an association taxed as a corporation) to deduct depreciation for improvements on the personal income tax returns.

Statutory authorization for a land trust is necessary for two reasons in the State of Hawaii. The first is the so-called "statute of uses," which has been in effect in Hawaii since 1855; and the second is the "doctrine of equitable conversion" as applied in Hawaii. The statute of uses provides that where a trustee has no duties, other than to simply hold title, the trust will not be considered as a valid trust. The doctrine of equitable

conversion would prevent a beneficiary's interest in the trust property being considered as personal property and make it impractical for the trustee to convey good title.

Your Committee upon consideration of this bill recommends that it be amended as follows:

1. Add a "Definition" Section to include the definition "recorded instrument."
2. Add a new Section dealing with disclosure of beneficiaries. Upon the written request or consent of a beneficiary, his identity and share of interest may be disclosed to a designated authority. Within ten days after receipt of written notice of a complaint of violation of any statute, ordinance, rule, or regulation of any governmental authority, the identity of the beneficiaries must be disclosed by the trustee. Any trustee or managing agent who violates the disclosure section shall be guilty of a misdemeanor.
3. Delete Section 7 relating to "Construction."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1614, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1614, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 459-76 Human Resources on S.B. No. 1777-76

The purpose of this bill is to provide full prepaid health benefits to employees who suffer illness resulting from substance abuse, particularly alcohol and drugs.

Your Committee finds that presently, alcoholism and drug addiction are not included as medical problems that are eligible for prepaid health care coverage. Your Committee finds that alcoholism and drug problems are the medical problems that are most disruptive of family life and employment. Alcoholism and drug addiction are illnesses, and like other illnesses, their treatment should be uniformly covered by prepaid health care plans. Hawaii Medical Service Association (HMSA) considers alcoholism and drug addiction to be illnesses and provides the same benefits as those available for illnesses in general on both an inpatient-outpatient basis. Kaiser Hospital is willing to provide the same benefits.

Your Committee has amended the bill by clarifying that medical treatment of substance abuse shall not be limited or reduced by restricting coverage to the mental health or psychiatric benefits of the plan. However, any psychiatric services received as a result of the treatment of substance abuse may be limited to the psychiatric benefits of the plan. Your Committee has further amended the bill by requiring that the licensing, certification or approval by the State Department of Health of any substance abuse treatment facility be in accord with the standards set by the Joint Commission of Accreditation of Hospitals.

Your Committee believes that the inclusion of alcoholism and drug addiction in prepaid health care plans will provide visibility to alcoholism and drug addiction benefits and as a result, may encourage more accurate diagnosis of health problems related to alcoholism and drug addiction. These amendments will ensure adequate treatment for alcoholism and drug addiction by requiring its inclusion in prepaid health care plans.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1777-76, as amended in the form attached hereto as S.B. No. 1777-76, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators F. Wong and Anderson.

SCRep. 460-76 Ecology, Environment and Recreation on S.R. No. 125

The purpose of this Resolution is to request that the Director of the Office of Environmental Quality Control, in his capacity as Chairman of the Environmental Council, submit to the Legislature a progress report on the work of the Environmental Council in monitoring compliance with the environmental goals of the State and recommendations pursuant to the further realization of these goals.

At a public hearing on this Resolution the Director of the Office of Environmental Quality Control submitted and testified on the Second Annual Report which was prepared by the Environmental Council in compliance with Chapter 341, HRS, as amended by Act 248, SLH, 1974. The charge to the Council reads as follows:

"The Council shall monitor the progress of state, county and federal agencies in achieving the State's environmental goals and policies and shall make an annual report with recommendations for improvement to the governor, the legislature, and the public no later than January 31 of each year. All state and county agencies shall cooperate with the Council and assist in the preparation of such a report by responding to requests for information made by the Council."

Your Committee finds that the key phrases in the charge are "monitor the progress of . . . agencies in achieving the state's environmental goals and policies, and . . . make an annual report with recommendations for improvement."

Your Committee finds that the report prepared by the Council falls far short of meeting this mandate. The existing report relied overmuch on the perception of agencies. The Director himself in testifying stated that surveys of agencies leading to the report generated more shibai than fact and that it was not terribly informative in regards to compliance with the statute. The report did not make an objective assessment as to agency procedures regarding environmental goals and policies of the State and the relative success and failure of agencies in adapting these procedures to the mandate.

Your Committee makes the following recommendations concerning future reports of the Council:

The Council should use the process of the annual report as a means of obtaining meaningful information from all agencies as a basis for recommendations for improvement. As the report does state, education of the agencies is important, and the obtaining of information and its analysis and assessment will serve as a basis for ongoing education of the agencies to the spirit and thrust of the environmental laws, goals, and policies of the State.

In preparing the Second Annual Report the Council sent out a questionnaire to various agencies. The report then presented a summary of data provided by the agencies in response to the questionnaire. In addition to summarizing the data, your Committee recommends that the Council assess each response as to what has been reported by the agency, and as a result of this assessment, try to objectively analyze conformity with the intent of the statute, obtaining further information if necessary.

The last four pages of the current report present suggestions from agencies with no comment. The Council, however, should assess these recommendations and present them as a coherent evaluated package.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 125, with the recommendations contained herein, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 461-76 Ecology, Environment and Recreation on S.B. No. 1804-76

The purpose of this Bill is to provide the person employed as the chief security officer by the Stadium Authority with all of the powers of police officers, including the power of arrest, during the times when he is in actual performance of his duties at the stadium.

In testifying at a public hearing on this Bill the Stadium Authority stated that it is necessary to give these powers to the chief security officer in order to protect and maintain the property, especially during those daytime hours when there is no event scheduled at the stadium and frequently there are no policemen in the area.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1804-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 462-76 Transportation on S.B. No. 1854-76

The purpose of this bill is to prohibit the use of a school bus sign on a vehicle that is not a school bus.

Instances have occurred where vehicles once used as school buses have been converted to other uses but continue to display a school bus sign. The school bus sign use restrictions in the present law apply only to school buses and not to other vehicles.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1854-76, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 463-76      Transportation on S.B.No. 2267-76

The purpose of this bill is to analyze the growth and expansion of general aviation (generally aircraft of 12,500 pounds or less) activities by establishing more equitable developmental rates pertaining to the renting or leasing of state airport facilities for general aviation activities.

Your Committee recognizes that the department of transportation has certain obligations under its airport revenue bond covenants to manage its airport facilities efficiently and economically. Your Committee feels that in the long run this obligation will be better met by stimulating general aviation activities through more equitable developmental rates.

Your Committee has recommended that Section 2 of this bill be amended to allow the department of transportation to establish developmental rates for building and land areas for general aviation purposes at rates equitable to all concerns involved in general aviation activity.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2267-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2267-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 464-76      Transportation on H.B. No. 1499

The purpose of this bill is to effect more efficient and responsive administration and to defray the initial cost of the state small boating program.

The current situation at state small boat harbors does not meet the demands for berths in state small boat harbors by various boating interest groups including, recreational boaters, commercial boating interest, "live-aboards", and visitors on cruising vessels.

Your Committee has considered the problems surrounding the state boating program. As stated in the introduction of your auditors report, No. 76-1, February 1976, entitled, "MANAGEMENT AUDIT OF THE RECREATIONAL BOATING PROGRAM", page 2 of the Overview, "There are significant consequences which results from the organizational defects. First, there are no real plans or strategy for recreational boating, and it is not possible to discern where the program is headed. Second, no one is really in charge of recreational boating as a program, and important and basic policy decisions go unresolved or are handled on a piecemeal basis."

It is, therefore, the intent of this bill to clarify legislative intent so the Department of Transportation can follow specific guidelines in administering the state small boat harbors. Further, your Committee finds it necessary to reorganize the Harbors Division of the department of transportation to include a new department the sole purpose of which shall be the administration of state small boat harbors, and a comprehensive boating program.

Testimony given at a public hearing on February 26, 1976 by Admiral E. Alvey Wright, Director of Transportation, small boating organizations, small boat owners and the general public was in support of many of the concepts that were presented. Many people had specific recommendations for amendments to the bill.

Your Committee has taken these recommendations into consideration and to enable the department of transportation to effect a more responsive administration of the state small boating program has made the following amendments to the bill:

(1) The requirement in Section 4, page 2, lines 23 and 24, states only vessels in good material and operating condition that are regularly navigated beyond the confines of the small boat harbors, is designed to eliminate derelicts, and hulks from state small boat harbors.

(2) The ceiling placed on mooring space occupied by live-aboards to twenty-five percent. Admiral Wright testified that the department needed a ceiling on liveaboards



for administrative purposes. Many people who testified felt that the twentyfive percent ceiling was arbitrarily set. Your Committee, after further consideration, takes the position that the twenty-five percent ceiling on live-boards is the optimum percentage of live-boards within small boat harbors.

(3) Testimony was opposed to the operation of commercial vessels within state small boat harbors. It is therefore the intent of this bill that commercial vessels not be allowed to operate out of Ala Wai or Keehi for commercial purposes. A commercial vessel operating elsewhere may moor at these harbors if no commercial activity takes place at the mooring.

(4) Your Committee recommends the use permits, fees and taxes be implemented to reach an equitable solution to payment of cost of the state small boating program.

(A) All vessels moored in a state small boat harbor shall have a valid permit. All vessels applying for a permit or a permit renewal must pass an inspection of minimum requirements by a Marine surveyor approved by the department of transportation. Your Committee recommends a list of specific requirements similar to the following form.

VESSEL NAME: \_\_\_\_\_ Date: \_\_\_\_\_  
 Type: \_\_\_\_\_ Sail: \_\_\_\_\_ Power: \_\_\_\_\_ Time: \_\_\_\_\_  
 Registration and/or Document No.: \_\_\_\_\_ Harbors No.: \_\_\_\_\_  
 Registered Owner: \_\_\_\_\_  
 Harbor: \_\_\_\_\_ Slip or Mooring: \_\_\_\_\_

Survey - 3.08	LAW NO	YES	NO	N/A	REMARKS
Primary purpose	266.21				
Reg. or document aboard	3.16				
Reg. numbers properly displayed	3.16				
Mfg's Serial no.	(8.05)				
Business Activity	8.02				
Reasonable cleanliness	4.02				
How many living aboard	3.21				
Life-saving equipment	5.10				
Engine ventilated	(5.18)				
Fuel ventilated	(5.18)				
Muffler	(5.20)				
Backflame arrestor	(5.17)				
Fire extinguishers	5.04				
5 - per living compartment	5.04				
Adequate steering					
Engine aboard					
Engine Operative					
Spars in vessel					
Rigging operative					
Sails aboard					
Proper lights	(5.02)				
Any pumps in use					
Horn or whistle, and bell	(5.03)				
Bottom clean for use & prop.					
Obvious holes in hull					
Reconstruction	3.18				
Head aboard	4.08				
Holding tank	4.08				
Properly installed	4.08				
Adequate exits	5.08				
3 - wire electrical system	5.03				
Change in Ownership	3.15				
Animal aboard	9.08				
Water backflow device	4.10				
Litter on pier	6.02				
General appearance					
Does vessel meet 266-21					

COMMENTS: \_\_\_\_\_

Surveyor: \_\_\_\_\_

(B) Standardized fees shall be based on the use of the vessel, its effect on the harbor, and the use of surrounding facilities. Boats used as principal domiciles shall pay a tax on the value of submerged land under the mooring.

(5) Testimony given by Mrs. Barbara Mills, a registered lobbyist and director of visitor satisfaction at Hawaii Visitors' Bureau; Frank M. Searle, citizen; and Mr. George T. Talbott, author of the book, CRUISING GUIDE TO THE HAWAIIAN ISLANDS, was in favor of providing space within state small boat harbors to accommodate visitors on cruising vessels to enable them to replenish their vessels and await favorable sailing conditions. Your Committee concurs and, therefore, Section 4 of this bill calls for the department of transportation to provide space within the state small boat harbors.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1499, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1499, H.D. 1, S.D. 1 and it be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 465-76 Human Resources on S.B. No. 1815-76

The purpose of this bill is to amend Hawaii Revised Statutes to (1) change the title of Section 27-22 H.R.S., (2) change the number of committee members from seven to nine, and (3) make a technical change involving the transfer of the provisions relating to hospital administrators from Section 27-22 to Section 27-21.2, H.R.S.

Changing the title of the section makes it correspond to the preferred wording of "county hospital advisory committee" as contained in the body of the section. Deletion of the word "general" permits the committee to act in an advisory capacity to those hospitals which are not general hospitals.

Increasing the membership of the committee provides a broader base for advising the Director of Health, particularly regarding quality of medical care, medical equipment and technology. In testimony, Mr. George Yuen, Director of Department of Health, felt this advice would be of great assistance in their efforts to offer effective services, and in the assessment of and recommendations concerning new medical services and delivery system.

The present provisions for appointing hospital administrators are intermixed with management advisory committees and committee members in Section 27-22. The more appropriate location is in Section 27-21.1, H.R.S., which pertains to hospital personnel.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1815-76 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators F. Wong and R. Wong.

SCRep. 466-76 Human Resources on S.B. No. 2724-76

The purpose of this bill is to establish one additional deputy in the Department of Health in charge of administration or such other functions within the department as may be assigned by the Director of Health with the approval of the Governor.

The Department of Health, the third largest State agency next to the Department of Education and the University of Hawaii, has statewide programs which are very complex and diverse in nature and scope. The establishment of the position of a deputy for administration will strengthen the top level management team, fill a vital need in administrative and management leadership and contribute to major improvements in the management of the department.

No additional appropriations will be required for the establishment of this position. The Department of Health will be able to absorb the salary cost for this position within existing appropriations.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2724-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators F. Wong and R. Wong.

SCRep. 467-76 Human Resources on S.B. No. 2331-76

The purpose of the bill is to enable the chief executives of the State and counties the authority to set compensation, hours, terms and conditions of employment for excluded employees. However, any adjustments requiring an appropriation will be subject to approval of the appropriate legislative body.

Your Committee finds that the current practice of making adjustments for excluded employees through individual legislative measures have proven to be uncertain and as a consequence, detrimental to the morale of excluded employees. These managerial and confidential employees are the representatives of management and are excluded from bargaining units, not by choice, but by law.

Your Committee believes that this bill will enable the chief executives to make timely and equitable adjustments appropriate to excluded employees.

Your Committee has amended the bill by adding a new section. The purpose of the amendment is to state clearly that those employees presently excluded from the collective bargaining process, has the right to self-association and to receive all rights and benefits negotiated through a collective bargaining agreement in a collective bargaining unit he would have belonged to had he not been excluded.

Your Committee feels that these excluded employees should not be deprived of their rights and benefits merely because of their exclusion from a collective bargaining unit.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 2331-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2331-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators F. Wong and R. Wong.

SCRep. 468-76 (Majority) Economic Development on S.B. No. 1822-76

The purpose of this bill is as stated in Standing Committee Report No. 358-76.

In addition to the amendments made as outlined in Standing Committee Report No. 358-76, your Committee finds that more changes are required to further clarify the true intent of the bill. These changes are as follows:

1. Page 1, line 13 - The word "department" was deleted and replaced by the word "board". This change will make the language consistent with that contained on page 3.

2. Page 4, line 7 - The words "or urban" were added after the word "commercial". The change directs that a public hearing be held in every case involving the proposed use of land in a conservation zone for urban as well as commercial use.

3. Pages 5, 6 and 7 - Changes have been made to provide that land owners of properties directly affected by proposed changes shall also be given appropriate notice by mail of the time, place of the hearing and the proposed changes except in the case of the periodic review where appropriate newspaper publications will satisfy notice requirements.

4. Page 8, line 20 - The words "after notice and hearing as provided herein" were added between the words "adopt" and "regulations". The change is made to insure that public hearings will be required in the case of periodic reviews.

5. Page 10, line 3 - The period was deleted and the words "provided that, in the case of commercial or urban uses a public hearing shall be held." This change directs that a public hearing be held in any case involving the proposed use of land in a conservation zone for commercial or urban uses making this section consistent with prior sections.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1822-76, S.D. 1, as amended herein, and recommends that it be placed on the calendar for Third Reading in the form attached hereto as S.B. No. 1822-76, S.D. 2.

Signed by all members of the Committee except Senators F. Wong and Yim.  
Senator King did not concur.

SCRep. 469-76 Ways and Means on S.B. No. 466

The purpose of this bill is to amend the Workmen's Compensation Law by adding a

new section covering the appointment of special medical panels for cardiovascular cases.

The bill provides the director of labor and industrial relations with discretion to refer a cardiovascular case to a panel of three cardiovascular specialists before he makes a determination on the claim. The fees of the panel members will be paid by the State to maintain impartiality in the panels.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 466, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 470-76 Ways and Means on S.B. No. 1741-76

The purpose of this bill is to establish a three-person full-time public utilities commission to be appointed for staggered six-year terms. The commission is to be placed in the department of budget and finance for administrative purposes.

Your Committee has amended the bill by deleting the repeal of the commission's responsibility for safety and security in section 269-15, Hawaii Revised Statutes, since no transfer of the functions of the public utilities commission in this area will occur this year.

Your Committee has deleted the new section 201- added to the Hawaii Revised Statutes placing the commission in the department of budget and finance for administrative purposes, as that section would be codified with other statutory provisions relating to the department of planning and economic development. Instead your Committee has inserted a new section 8 amending section 26-8 establishing the department of budget and finance and added to that section a paragraph placing the public utilities commission in that department for administrative purposes. Section 8 of the bill amending section 26-9 has been renumbered section 9.

Your Committee has reduced the sum of \$417,042 to \$375,224, since the first sum is for the period from the effective date of the bill to July 1, 1977. It does not appear at this time that such a large sum will be necessary due to the lag time in establishing the commission and the program. Your Committee has also made certain necessary style and technical changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1741-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1741-76, S.D. 2.

Signed by all members of the Committee except Senator Henderson.

SCRep. 471-76 Judiciary on S.B. No. 1816-76

The purpose of this bill is to amend various sections of Chapter 396, Hawaii Revised Statutes, the Hawaii Occupational Safety and Health Law. The changes proposed are basically intended to clarify the state law; to conform it to the federal Occupational Safety and Health Act; to protect the department's employees from civil suits and criminal acts; to establish additional appeal rights for employees in discrimination and variance cases; and to make certain technical changes.

Your Committee concurs with the findings of your Committee on Human Resources in Standing Committee Report No. 303-76, but amended the bill to correct a typographical error.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1816-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1816-76, S.D. 2.

Signed by all members of the Committee except Senators F. Wong, George and Saiki.

SCRep. 472-76 Judiciary on S.B. No. 2493-76

The purpose of this bill is to provide additional means of public access by requiring the provision of public access, not only in conjunction with subdivision actions, but with building permit actions as well. An additional intent of this bill is to exempt from the requirement of dedication of access instances when improvements on small lots are involved.

Your Committee has amended the bill by changing the deadline for adoption of the

required ordinances, and by exempting from the requirements of the section instances where building permits are issued for improvements on agricultural lots and for repairs, improvements or additions to existing structures. Your Committee also amended the purpose section of the bill to reflect the above amendments.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2493-76, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2493-76, S.D. 1.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 473-76      Judiciary on S.B. No. 2527-76

The purpose of this bill is to improve the Family Court's capacity to deal with children under its jurisdiction and to conform the procedure to terminate parental rights to Chapter 578 relating to Adoption.

This would be accomplished by amending Chapter 571 relating to Family Courts.

The major changes sought are:

(1) Redefine the jurisdiction of the Family Court over children in need of supervision such as truancy, runaway or parental neglect as distinguished from children committing violations of federal, state or local ordinances.

(2) Extend the jurisdiction of the Family Court over a person past the age of 18 but not beyond age 19, in order that the Family Court has enough time to work with a child under its jurisdiction.

(3) Give the Family Court the authority when a child is brought to a detention facility by a police officer, to require where appropriate, his parent, guardian, legal custodian or other responsible adult to accept his physical custody and to order a police officer or other person to transport the child to his home.

Other amendments made have been in form rather than substance including: (1) amending references to "minor" to "child", (2) a broader statement of purpose, (3) conforming Sections 571-31 and 571-71, Hawaii Revised Statutes, as to the circumstance under which a police officer may detain a child, (4) changing the burden of proof in children's cases for petition under Section 571-11(i) from a preponderance of evidence to proof beyond a reasonable doubt, already adhered to by the Family Court rule, (5) providing for hearing of cases involving traffic violations by children by district courts with the same rules applicable to Family Court, (Section 10, amending Section 571-42), and (6) providing that legal custody of children, by order of court can be vested in public agencies and private agencies approved by the court as well as the Department of Social Services and Housing (Section 11 amending 571-48).

The bill would also seek to tie the termination of parental rights to the provisions of the adoption statute. To terminate parental rights, a new requirement is stated, providing that notice including time and place of hearing, is to be given to a natural but not legal father but who is an adjudicated, presumed and concerned father as defined in Chapter 578 relating to adoption, and to any natural father who is not the child's legal, adjudicated, presumed or concerned father, that either he is unknown or if known has not shown a reasonable degree of interest in the child, and further provides for a judicial hearing to determine if a notice must be given to an unknown, nonascertainable or nonconcerned father for a petition to terminate parental rights.

Your Committee considered testimony from the Family Court, Department of Social Services and Housing, the Child and Family Service, Hawaii Council of the National Council on Crime and Delinquency, the Commission on Children and Youth, and the Police Department of the City and County of Honolulu.

All generally testified in favor of the bill but with some suggested amendments which your Committee has considered. Your Committee accordingly has amended the bill as follows:

Section 4 amending Section 571-11.

Delete the phrase "which would be an offense if committed by an adult" under Section 571-11(1) in indicating the court's jurisdiction over persons who violate any federal, state or local law or municipal ordinance. There are violations which are specific in applicability to children such as curfew violations which would otherwise be excluded from coverage.

## Section 571-11(2)(B)

Insert the words "or abuse" after "physical or emotional deprivation" in cases where the court may take jurisdiction to indicate that it can act in cases not clearly a deprivation.

Section 571-11(2)(C) restore the jurisdiction to children "who is beyond the control of his parent or other custodian" and delete the word "chronic" in the phrase "whose chronic behavior is injurious to his own or others' welfare." Your Committee believes there are cases where this provision would allow the Family Court to take jurisdiction not otherwise covered, and the word "chronic" would eliminate some cases where jurisdiction is needed, which would otherwise not be referred to Family Court.

Section 5 amending Section 571-13 (Retention of jurisdiction) should be amended to read"

"Sec. 571-13. Retention of jurisdiction. Except as provided in section 571-22, jurisdiction obtained by the court in the case of a child may be retained by it, for the purposes of this chapter, until after he becomes eighteen years of age until the full term for which any order entered shall have expired provided that such term shall not extend beyond the time he achieves nineteen years of age unless judicially terminated prior thereto. This provision shall not be construed, however, to confer upon the Family Court any jurisdiction over a person for any criminal act he commits after he achieves eighteen years of age."

The amendment would more clearly indicate that the Family Court will not assume jurisdiction over a person for any crime he commits after age 18 even though he is still under the supervision of the court past age 18.

Section 7 amending Section 571-31 relating to taking children into custody; release, and notice by deleting the last paragraph indicating that "this section shall apply to any adult who comes within Section 571-11(1) or (2)." which is now unnecessary.

Section 8 amending Section 571-31 is further amended to drop the additional language beginning on line 21 on page 13 and ending on line 6 of page 14 reading as follows:

"where it is determined that the best interests of the child so requires or that no other appropriate facility is available, the judge, the designated court officer, or the director of detention service may require the parent, guardian, legal custodian or other responsible adult to accept his physical custody forthwith, and in furtherance of such order may require the officer or other person who has brought the child to the intake office of the court or to the place of detention or shelter to transport the child to his home."

Your Committee believes that this would impose an unreasonable burden on the Police Department.

Section 11 amending 571-48 relating to Decrees is further amended to provide in 571-48(1)(B) relating to the court's authority to vest legal custody of a child adjudicated under 571-11(i) the youth correctional facility or public or private agency to eliminate the language "commit to the care of director of social services" and restore the old language "vest legal custody of in the Hawaii Youth Correctional facility" which is a clearer reference, and also add language that such vesting of legal custody is "after prior consultation with the agency or institution".

Section 571-48(2) that or to a child adjudicated under 571-11(2) that legal custody can be vested in a governmental or private agency or institution only "after prior consultation with the agency or institution."

Section 14 amending Section 571-61 Relating to Termination of Parental Rights in subsection (b)(1)(6) on page 32 in line 6 to substitute "adoptive instead of adopted" and in subsection (b)(4) on line 6 page 34 to add the phrase "under this chapter" after such authority may be exercised" for clarification.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2527-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2527-76, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators F. Wong, George and Saiki.

SCRep. 474-76 Judiciary on S.B. No. 2760-76

The purpose of this bill is to amend Section 5745, Hawaii Revised Statutes, by eliminating

the requirement of publication in a newspaper of general circulation of the order of the lieutenant governor changing the name of a person.

Your Committee finds that there is no good reason for the publication of such an order.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2760-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators F. Wong, George and Saiki.

SCRep. 475-76      Judiciary on S.B. No. 2929-76

The purpose of this bill is to strengthen the present laws for approvals of new industrial loan company applications. Your Committee finds that present law does not provide adequate guidelines for the bank examiner under which he may or may not approve applications for new industrial loan licenses. Only three conditions must be satisfied before an applicant may obtain an industrial loan license. They are: (1) financial responsibility, experience and character of the applicant and its officers, (2) the approval of the license will promote convenience and advantage to the community and (3) the applicant has a minimum capital of \$100,000 and a specific location to carry on the business.

This bill will add an additional requirement which is similar to a condition required in obtaining both insured bank and savings and loan association charters. The additional requirement is that the granting of such license will not cause undue injury to existing companies by (1) lessening competition (2) tending to create a monopoly, or (3) restraining trade.

Further, the bill amends the section related to transfer of licenses.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2929-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 476-76      Human Resources on S.B. No. 1667

The purpose of this bill is to defer the payment of annual and longevity pay increases for employees who are excluded from the bargaining units in any fiscal year that bargaining unit employees do not receive annual and longevity pay increases because an increase in the wage schedule took effect.

Act 164, Session Laws of Hawaii 1975, adopted the concept for deferral of annual and longevity pay increases whenever a general pay increase was negotiated for employees covered by collective bargaining. The intent of this bill is to be consistent in administering pay adjustments for employees excluded and covered by collective bargaining agreements.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1667 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Young, F. Wong and Henderson.

SCRep. 477-76      Transportation on S.B. No. 269

The purpose of this bill is to amend Section 286-81, Hawaii Revised Statutes, to exclude (1) the requirement of wearing a safety helmet in the operation of a motorcycle or motor scooter on any State highway; and (2) the necessity of furnishing a safety helmet concurrently with the sale, rental or lease of a motorcycle or motor scooter.

Your Committee, after considering all testimony has amended the bill by retaining the existing provisions which require operators and passengers to wear safety equipment and which require persons who lease or rent such vehicles to furnish such safety equipment. Your Committee has further amended the bill by imposing the latter requirement on persons who also sell such vehicles.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 269, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 269, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ching, Taira and Soares.

SCRep. 478-76 (Majority) Ways and Means on S.B. No. 28

The purpose of this bill is to make permanent the temporary fuel tax increase of 3-1/2 cents on fuel enacted by the legislature in 1975 and provides that the counties may not charge a fuel tax greater than the fuel tax of the State. The bill also enacts two new sections to provide for a \$1 state vehicle registration fee and a 10-cent tax to be levied on the owner of each motor vehicle for every 100 cubic inches of the vehicle's engine size. Both the fee and the tax are to be collected by the counties and transferred to the state highway fund. The fee and the tax are to take effect on January 1, 1978 and to be paid every year thereafter.

Your Committee agrees with the purpose of the bill in that the revenues for the state highway fund must be increased to meet budgeted expenditures. Your Committee also agrees that a state registration fee and vehicle engine displacement tax, although established at a nominal amount at this time, will help to relieve the highway fund deficit, if the fund is retained.

Your Committee has amended the bill by providing that the increase in fuel taxes shall be for one year only. Since the state highway fund may be abolished, it is premature to enact this 3-1/2-cent increase on a permanent basis. With the abolition of the permanency of this increase, section 3 limiting the fuel tax of the counties has been eliminated as unnecessary.

Your Committee has combined sections 4 and 5 into a new section 3 enacting two new sections to be added to chapter 249, Hawaii Revised Statutes. The first new section enacts the state \$1 vehicle registration fee. Your Committee has clarified the language in this section and added a proviso that this new fee is in addition to other taxes and fees due under chapter 249. It has also been amended by deleting provisions requiring the counties to transfer the funds collected under this section to the state highway fund pursuant to section 249-18, Hawaii Revised Statutes. Section 249-18 refers to the county highway fund and there is no provision for the transfer of moneys therefrom to the State. Your Committee has amended the language to specifically require the counties to transfer all moneys collected under this new section to the State to be paid into the state highway fund.

Your Committee has also amended the second new section establishing the engine displacement tax by providing that this tax is in addition to all other fees and taxes levied by chapter 249 and by making the fund transfer provisions to be parallel to the provisions of the section concerning the state vehicle registration fee.

Finally your Committee has added the Ramseyer section required when enacting new sections, and renumbered and rewritten the effective date section to reflect the other amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 28, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 28, S.D. 2.

Signed by all members of the Committee. Senator King did not concur.

SCRep. 479-76 Ways and Means on S.B. No. 1187

The purpose of this bill is to assist residents of Hawaii to obtain a dental education through bilateral contracts with dental schools in other states.

This program is similar to the WICHE program, except that the director of budget and finance will negotiate the bilateral contracts outside the WICHE area.

Your Committee has amended the bill by adding "ability" in addition to the need of a student as a criteria for determining the amount of funds to be expended on behalf of a student.

Your Committee finds in addition that the condition of service to the State following the completion of the student's dental education is too restrictive. Accordingly, your Committee has amended the bill by expanding the condition of service to include "areas with inadequate dental service, with the department of health, or other acceptable service as determined by the director of social services, director of health, and the director of finance, jointly".



Your Committee further finds that the cost to establish the Hawaii Dental Education Plan would be approximately \$39,000 and therefore, has included this sum in the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1187, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1187, S.D. 2.

Signed by all members of the Committee.

SCRep. 480-76 Ways and Means on S.B. No. 1899-76

The purpose of this bill is to improve the delivery of programs and services for the State's children and youth. There are several major problems in the area of children and youth programs and services, such as the lack of coordination among the services and planning activities of the various departments of the State, duplication of services, lack of clarity and responsibility for services, and inadequately articulated interagency programs.

The bill provides for the establishment of a new office, the office of children and youth, within the office of the governor, to replace the existing commission on children and youth and the existing office of youth affairs, office of information and youth affairs in the office of the governor.

The intent of the bill is to provide maximum authority to the counties with respect to the development and implementation of county programs. The bill also provides for an advisory council for children and youth of seventeen members. Finally, the bill provides that the youth affairs office of the office of information and youth affairs in the office of the governor is to be repealed.

Your Committee has amended this bill to increase from 17 to 19 the number of members of the advisory council for children and youth, adding two citizens under the age of 26 at the time of appointment, to be appointed by the governor. This increases the number of public members to constitute a majority, and consequently control of the council will rest with the public members.

Your Committee has deleted section 6, the appropriations section, designated section 7 as section 6, and amended it to provide that all funds previously appropriated to the commission on children and youth and the youth affairs office of the office of information and youth affairs shall be transferred to and expended by the office of children and youth. Due to the probable delay in establishing the office of children and youth, existing moneys will be sufficient to sustain the office for the fiscal year 1976-77.

Your Committee has also made certain technical amendments of style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1899-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1899-76, S.D. 2.

Signed by all members of the Committee.

SCRep. 481-76 Ways and Means on S.B. No. 2294-76

The purpose of this bill is to provide a permanent vehicle for citizen input into the health planning process, so that the health services plan of the State will be based on informed decision-making.

The bill adds a new part to chapter 323D, Hawaii Revised Statutes, the state enabling health planning legislation responding to Public Law 93-641, the National Health Planning and Resources Development Act. This bill mandates advisory subarea health planning councils in the state health planning process. Such subarea councils are presently permitted, but not required, in pertinent federal and state laws.

Your Committee has amended the bill by redesignating the councils as "subarea health planning councils", to more clearly reflect their intended purpose. The bill has been further amended to provide for contracting for professional and other services, so that greater flexibility in dedication of resources to services needs, which may change from time to time, may be ensured.

The bill has been clarified to provide that the councils established by the bill shall be appointed by the governor, subject to section 26-34 of the Hawaii Revised Statutes,

and to require the solicitation of nominees for appointments to the councils.

Your Committee has reduced the appropriation to \$150,000, and has inserted a lapsing clause for the funds. Your Committee intends that the purpose of the appropriation is to provide for the organization, establishment, and operation of subarea councils in those Oahu areas currently without such subarea activities, consistent with the recommendations of the Governor's Ad Hoc Committee on Implementation of Public Law 93-641. Your Committee finds that other areas within the State currently have subarea activities, and are funded for such activities through existing resources.

Other style and technical amendments have been made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2294-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2294-76, S.D. 2.

Signed by all members of the Committee.

SCRep. 482-76 Ways and Means on S.B. No. 2226-76

The purpose of this bill is to include within membership service that service rendered prior to becoming a member by full-time employees at Puunene Hospital and Waimea Dispensary, Waimea, Kauai.

Your Committee finds that this bill will result in no cost to the State, as the hospital employees will have to pay back contributions to receive back credit, and a small number of people, 33, is involved.

Your Committee has amended the bill by changing the section number on line 3 of page 1 which reads "88-74" to read "88-51" which is the proper section number.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2226-76, as amended herein, and recommends that it pass Second Reading in the form attached as S.B. No. 2226-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 483-76 Judiciary on S.B. No. 2933-76

The purpose of this bill is to make coordinating changes in Chapter 352, Hawaii Revised Statutes, pertaining to the Hawaii Youth Correctional Facility to permit persons to be referred by the Family Court to the Hawaii Youth Correctional Facility up to their nineteenth birthday. The bill is a result of a change in the Family Court Act, Chapter 352, Hawaii Revised Statutes, extending the jurisdiction over persons up to their nineteenth birthday so that they may still be committed to the facility up to that time in selected cases to provide some continuity of services.

Your Committee has amended this bill as follows:

1. substitute for the word "jail" the more accurate "adult correctional facility."
2. substitute "Hawaii Youth Correctional Facility" on page 5, line 12, for "custody of the director of social services" to clearly indicate placement of a person in the Hawaii Youth Correctional Facility.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2933-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2933-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators F. Wong, George and Saiki.

SCRep. 484-76 Housing and Hawaiian Homes on S.C.R. No. 13

The purpose of this concurrent resolution is to urge the Hawaii Housing Authority to form an ad hoc advisory committee of Act 105 homeowners to evaluate the present homeownership courses, and recommend necessary changes in scheduling, course content, instruction, and other matters.

The Hawaii Housing Authority's home ownership courses were established to provide

prospective project residents with information which would be necessary to them as homeowners. Your Committee finds that a study as recommended by the concurrent resolution would prove beneficial by improving the quality of such courses. The study will have input from those who have previously gone through the course and are consequently equipped by experience to judge its merits and failings and recommend improvements.

Your Committee on Housing and Hawaiian Homes concurs with the intent and purpose of S.C.R. No. 13 and recommends its adoption.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 485-76 (Majority) Education on S.B. No. 2923-76

The purpose of this bill is to eliminate the mandatory one percent for art projects that is included within all appropriations for capital improvement projects. Your Committee has found that the one percent is arbitrary and has resulted in an unexpended, unallotted amount of over \$2,000,000 for this fund.

Your Committee has amended the bill to reflect greater accountability in the administration of this program by calling for an annual budgetary review by the legislature and the governor, accompanied by an orderly transition from the present method of funding to the proposed method.

Your Committee has further amended this bill to eliminate any references to the abolishment of the State Foundation of Culture and the Arts.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2923-76, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2923-76, S.D. 1.

Signed by all members of the Committee. Senators Kuroda and Anderson did not concur.

SCRep. 486-76 (Majority) Judiciary on S.B. No. 2501-76

The purpose of this bill, as amended, is to update and strengthen the provisions of Sections 445-171 and 445-172, Hawaii Revised Statutes, which relate to the licensing and other legal obligations of secondhand dealers.

Presently, secondhand dealers are required to comply with the provisions of the above mentioned sections which were originally enacted in 1905. The police, who are responsible for enforcing these sections, as well as the dealers themselves, are in agreement that some of the requirements of the present law are impractical and in great need of revision.

Section 445-171 presently requires county treasurers to grant licenses to "suitable persons to be dealers and traders in secondhand articles." This language is broad and may be interpreted to include persons outside of the intended scope of this requirement. As amended, this bill requires persons, "who deal in the business of selling secondhand articles, or buying or receiving secondhand articles for the purpose of resale," to be licensed as dealers. Also, to assist interpretation, this bill requires that the dealer's license must contain his general excise tax license number.

This section also presently requires the secondhand dealer to keep a written description of every article purchased. This requirement is impractical and burdensome on dealers who often purchase sets, lots, or collections of articles. As amended, this bill allows the dealer to describe the individual articles or the set, lot, or collection articles.

In addition, this bill requires that only items purchased or received within the State are subject to the description and statement requirements of this section.

As an attempt to curb the alleged traffic of stolen goods to secondhand dealers, this bill requires a person who sells articles to secondhand dealers to warrant that he is indeed the legal owner of property and creates a penalty for the falsification of such a statement. The secondhand dealer will be required to check proper identification and keep the statements for a period of three years after the date of sale.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2501-76, S.D. 1, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2501-76, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.  
Senators Taira, Takitani, George and Leopold did not concur.

SCRep. 487-76      Judiciary on S.B. No. 1838-76

The purpose of this bill is to amend Chapter 294, Hawaii Revised Statutes, the Hawaii no-fault law. The proposed amendments vary from those of a housekeeping nature intended to improve the operation and administration of the programs to those which may have a direct impact regarding benefits to the motor vehicle insurance consumers.

Upon consideration of this bill, your Committee has amended the bill by deleting several of the proposed changes and making other technical changes. The bill, as amended, makes the following changes to Chapter 294:

(1) (a) The definition of "accidental harm" in Section 294-2 is amended to conform to changes made in Section 294-4 by the Legislature last session. Both sections deal with pedestrians who are injured by a motor vehicle. This proposed amendment removes the provision that an injured pedestrian is one who is "struck by" a motor vehicle.

(b) The definition of "motor vehicle accident" in Section 294-2, Hawaii Revised Statutes, is amended to conform to the accident situations described in Sections 294-2(1) and 294-2(12). This is primarily a technical amendment for clarity purposes.

(2) The definition of "insurer" in Section 294-2 is amended from every person engaged in the business of making contracts of motor vehicle insurance, etc., to every person who is licensed to engage to do so. Certain insurers have interpreted the present definition of "insurer" as being applicable only to those actively engaged in the writing of motor vehicle insurance in Hawaii. The proposed amendment clarifies that all provisions of the no-fault law apply to all insurers authorized or licensed to transact motor vehicle insurance business in Hawaii.

(3) This definition of "no-fault benefits" in Section 294-2 is amended to clearly state that substitution services which may be provided through no-fault benefits do not include those to maintain general income.

(4) Subsection 294-5(b) presently provides that no-fault benefits are secondary and net of any benefits a person receives from social security, worker's compensation, or public assistance laws. The present provision allows claimants to seek no-fault benefits on a primary basis by declining to receive similar benefits available to him. This was not the intent of the Legislature regarding the secondary nature of no-fault benefits. This bill amends this section by expressly providing that no benefits are to be paid secondary and net of any similar benefits a person is entitled to receives from social security, worker's compensation or public assistance laws.

(5) The proposed amendment to sub-section 294-5(d) will conform the same to sections 294-4 and 294-2(1) by eliminating the earlier mentioned "struck by" requirement relating to pedestrians.

(6) This amendment to subsection 294-8(a)(1) is to clarify the intent that notwithstanding benefits under social security, worker's compensation or public assistance laws, all no-fault benefits and coverages, shall be primary and that no insurer can enter into an agreement in which the no-fault policy becomes excess to other collectable automobile insurance policies involved. This measure will provide added protection for the consumer.

(7) Section 294-9 presently provides that cancellation notices be mailed by certified or registered mail, deliverable only to the addressee. While the intent of this provision was to guarantee delivery of the cancellation notice, this requirement has caused many problems and delays for both consumers and insurers. The proposed amendment would require that cancellation notices be sent and that a certificate of mailing be used. This would provide adequate safeguards for the consumer while reducing the delays and costs entailed by the present procedure.

(8) Section 294-11 presently requires a minimum bodily injury liability limit of \$25,000 per person with no aggregate or occurrence limit. This unlimited exposure has caused some problems primarily for local companies in negotiating proper reinsurance when the insured desires higher liability than the minimum, such as \$100,000 per person. With an unlimited loss potential, it leaves the company open to possible catastrophic losses.

This amendment would permit an aggregate limit, subject to the approval by the commissioner, for the larger policies, but in no event would it be less than \$25,000 per person, since this would apply only in situations where an unusually large number of persons are injured.

(9) Subsection 294-13(j) is amended to conform it to amendments to the open rating section enacted under Act 113, Session Laws of Hawaii, 1975. To remain consistent, the applicable dates with respect to the commissioner's ratemaking powers are accordingly revised.

(10) Subsection 294-21(c) is amended to provide that the Joint Underwriting Plan Board of Governors shall meet at least quarterly. Presently, the Board is required to meet at least monthly, however, the Board members are in unanimous agreement that such monthly meetings are not required.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1838-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1838-76, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki and F. Wong.

SCRep. 488-76      Judiciary on S.B. No. 2019-76

The purpose of this bill is to allow the Board of Land and Natural Resources to dispose of public lands at the nominal price of \$1 when such lands are to be used for the development of dwelling unit projects by the Hawaii Housing Authority.

The instrument of disposition shall expressly convey to the Authority the sole right of first refusal under the restriction on transfer and any lease shall confer the right of reversionary interest to the Authority.

Your Committee concurs with the findings of your Committee on Housing and Hawaiian Homes in Standing Committee Report No. 26776.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2019-76, S.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Kawasaki and F. Wong.

SCRep. 489-76      Judiciary on S.B. No. 2703-76

The purpose of this bill is to create a new class of liquor license to be known as a "hotel" license, and which would be available to those premises which qualify as a hotel, as defined by the bill, and subject to rules and regulations as set forth by the county liquor commissions.

Your Committee recommends that this bill be amended by substituting a 60-day period rather than the existing 10-day period within which notice of violation shall be given pursuant to Section 281-91, Hawaii Revised Statutes. The bill as amended would read that no liquor license shall be suspended or revoked for any violation unless written notice of the alleged violation is given within sixty days of the occurrence and the licensee given a hearing on the charge not more than ten nor less than five days after the giving of notice. This amendment is designed to resolve the problems of Maui County and possibly, to a lesser degree, those of Hawaii and Kauai Counties because of the infrequency of meetings of the liquor commissions in these counties. The infrequency of these meetings makes it difficult to comply with the present requirements.

Your Committee further recommends that the bill be amended to authorize the liquor commission to delay the payment of any renewal fee for a license issued for the premises or additional fee accrued on the basis of gross sales made under such license until the sale of the premises has been completed under a foreclosure proceeding. There have been instances where a licensee became bankrupt and the liquor commissioner had no alternative but to revoke the license upon the nonpayment of the renewal fee. This amendment will help alleviate the situation.

Your Committee further recommends that this bill be amended by making technical changes which do not substantively affect the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2703-76, S.D. 1, as amended herein, and recommends that it pass Third Reading, in the form attached hereto as S.B. No. 2703-76, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki and F. Wong.

SCRep. 490-76 Judiciary on S.B. No. 2909-76

The purpose of this bill is to provide for historic preservation, enabling the State to take a strong leadership position in protecting its own historic properties. The State would reserve the right of ownership and control of historic property located on lands or under waters owned or controlled by the State. New finds of historic places would be reported to the Department of Land and Natural Resources by other government agencies to allow for investigation and recording, preservation or salvage.

Your Committee concurs with the findings of your Committee on Ecology, Environment and Recreation in Standing Committee Report No. 295-76.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2909-76 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Kawasaki and F. Wong.

SCRep. 491-76 Judiciary on S.B. No. 2986-76

The purpose of this bill is to amend certain sections of Chapter 294, Hawaii Revised Statutes, to reduce the administrative costs of providing no-fault automobile accident insurance coverage to persons receiving public assistance.

Your Committee concurs with the findings of your Committee on Consumer Protection in Standing Committee Report No. 161-76.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2986-76, S.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Kawasaki and F. Wong.

SCRep. 492-76 Ways and Means on S.B. No. 2801-76

The purpose of this bill is to appropriate funds for the continuing development, acceleration, and implementation of the agricultural park program in Hawaii.

Your Committee agrees with the concept of the development of agricultural parks in the State of Hawaii as articulated in Senate Standing Committee Report No. 340-76, dated March 8, 1976.

Your Committee has amended this bill by deleting the specific reference to Kunia in order to provide flexibility to establish an agricultural park at any appropriate location on Oahu, and by deleting all provisions for additional appropriations.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2801-76, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2801-76, S.D. 2.

Signed by all members of the Committee.

SCRep. 493-76 Ways and Means on S.B. No. 1758-76

The purpose of this bill is to make improvements in several aspects of the housing development program conducted by the Hawaii Housing Authority pursuant to chapters 356, 359, and 359G, Hawaii Revised Statutes. In addition to substantive changes, the bill contains many style changes, designed to correct labyrinthine and obfuscating language.

Your Committee has amended S.B. No. 1758-76, S.D. 1, with major substantive amendments as follows:

(1) The requirement, under section 5 of the bill, that the authority establish a program for housing design research, has been amended to provide that the authority may establish such a program. Your Committee agrees that there is a definite need for such activity, but feels that greater specification of the costs of full implementation should precede mandating of the program.

(2) Authorization to the authority to engage in mortgage financing under section 5 of the bill has been eliminated. Again, your Committee concurs that this type of support may conceivably be needed, but greater cost specification is required.

(3) New sections requiring development of a program strategy plan and a projects

review panel mechanism have been eliminated from section 5 of the bill. The State Housing Plan now being prepared by the Department of Planning and Economic Development, is expected to make recommendations on improving development planning and project selection.

(4) Specific bond authorizations for housing development and specific operating appropriations have been eliminated from the bill. An appropriation of \$100,000 to establish an information system is retained. Your Committee acknowledges the importance of directing all necessary available resources to housing, and will consider such needs in relation to other program area needs.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1758-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1758-76, S.D. 2.

Signed by all members of the Committee.

SCRep. 494-76      Ways and Means on S.B. No. 2320-76

The purpose of this bill is to change the State and counties contribution from a fixed dollar amount to a 50% cost-sharing percentage of the total medical plan premium costs and increases the monthly contribution for the dental plan from \$2.57 to \$3.26 for each child under 19 of an employee.

Your Committee finds that at the present time the employees share of medical plan premium cost has risen significantly because of the concurrent increase in health care costs with the removal of price controls by the Federal Cost of Living Council in 1974 and to the present statutes which requires employees to pay the burden of all medical premium cost increases in excess of the government's contribution.

Your Committee is mindful of the financial burden the increased premium costs have placed on the employees. However, we are uncertain as to the advisability of enacting a 50% government contribution level at this time. Being mindful of the need to provide some relief to employees, we have amended this bill to raise the government contribution level by \$1 from \$5 to \$6 for individual employee beneficiaries and from \$15 to \$16 for employee-beneficiaries with dependent-beneficiaries.

Your Committee has adjusted the appropriation amount in this bill to reflect our amendment.

Your Committee finds that increasing the government's contribution to one-half of the total monthly payments for health benefit plans is too large an increase at this time. Your Committee has therefore deleted this provision and instead increased the monthly contribution for each employee-beneficiary from \$5 to \$7.50 and for each employee-beneficiary with a dependent-beneficiary from \$15 to \$22.50. This increase provides some relief to the employees from the increasing costs for such benefits. The appropriation in section 2 has been appropriately reduced.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2320-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2320-76, S.D. 2.

Signed by all members of the Committee except Senators O'Connor and Henderson.

SCRep. 495-76      Ways and Means on S.B. No. 1278

The purpose of this bill is to allow reports and publications of the Office of the Legislative Reference Bureau to be sold and distributed by the Bureau, as determined by the director, at a price which shall not exceed the cost of printing, binding, and publication. It provides that the moneys received shall be paid into the state general fund. The bill allows the director to furnish reports and publications free of charge to public officials and agencies of this or other states and to private nonprofit agencies and organizations in this State interested in government operations.

Your Committee notes that an audit of the books of the Office of the Legislative Reference Bureau raised a question concerning the legal authority of the Bureau to charge for its reports and publications and that this bill will clarify such authority.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1278, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 496-76 Ways and Means on S.B. No. 849

The purpose of this bill is to update the meaning of the term "transfer" by covering four specific categories under which personnel transfers will occur. The four categories of transfer are: (1) in the same class; (2) in a different class assigned to the same pay range in the same salary structure; (3) in a different salary structure and in a class assigned to a pay rate of the pay range of the class which the employee is transferring from, or; (4) in a different salary structure and in a class assigned to a pay range whose highest pay rate is less than or exceeds the highest pay rate of the class which employee is transferring from, by no more than the dollar difference between the first and second step of the pay range of the class the employee is transferring from.

Your Committee finds that section 76-35, Hawaii Revised Statutes is obsolete and was written when all civil service employees were under the same salary schedule. With collective bargaining, there are ten salary schedules for Civil Service employees with variations in rate for different bargaining units.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 849, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 497-76 Ways and Means on S.B. No. 2285-76

The purpose of this bill is to allow any judge or elected official, who terminated his membership after attaining the limitation of his retirement benefits, but who is still in active service, to annul his retirement status and be restored to active membership within 6 months of the effective date of this bill if enacted. The bill also allows judges to serve after age 65 after terminating retirement system membership under section 88-61(c), Hawaii Revised Statutes.

Your Committee has amended this bill to provide, in addition, that any person who did not terminate membership under section 88-61(c) may similarly elect to be reinstated. The requirement for election to retire in 6 months after the date his allowance reaches 75 per cent of his average final compensation in the existing law has been repealed and the requirement in the new provisions concerning reinstatement within 6 months after the effective date of the bill has been deleted and a requirement that the person may be reinstated upon application to the system inserted. The new language relating to reinstatement in the system has been further amended by deleting the phrase ", or any person who has not terminated his membership in the system," as unnecessary.

Other technical and style amendments have been made to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2285-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2285-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 498-76 Ways and Means on H.B. No. 1994-76

The purpose of this bill is to increase the home exemption for real property from \$8,000 to \$14,000, if the real property owned and occupied was the principal home of the individual as of the date of assessment, and to delete the requirement that the exemption shall be revoked if the home is not occupied by the owner during the first 3 months of the tax year, and to clarify that the property allowed on exemption may be held in joint tenancy, tenancy by the entirety, or tenancy in common.

Your Committee finds that the increase in home exemption is necessary to offset the increase in assessed value that occurs each year. Your Committee, however, has amended the bill by reducing the exemption to \$12,000, since this bill is being considered along with S.B. No. 1874-76 which, as amended by your Committee, will also supply relief to the homeowners by setting the percentage of assessed value of market value at 60 per cent.

Your Committee has also amended the bill by inserting the amendments made by Act 157, Session Laws of Hawaii 1975, concerning the time of assessment which were left out in the version of this bill your Committee is considering. As these amendments are



shown in the Hawaii Revised Statutes by the revisor in brackets and underlining, a savings provision has also been inserted in the Ramseyer provision.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1994-76, as amended herein, and recommends that it pass Second Reading in the form attached as H.B. No. 1994-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 499-76 Ways and Means on S.B. No. 1874-76

The purpose of this bill is to establish by statute the percentage of fair market value at which real property is assessed at 50 per cent of such fair market value.

Your Committee finds that increasing real property values each year have raised the assessment and resulting taxes on such property to overburdensome levels for the people of this State. Fixing the percentage of fair market value at which such property is assessed at a level lower than the present 70 per cent will provide relief for these persons. Your Committee finds, however, that a drop from 70 per cent to 50 per cent at one time will reduce county revenues without time for the counties to properly consider the impact thereof and to correct their budgets accordingly. Therefore, your Committee has changed the 50 per cent percentage to 60 per cent. Your Committee has also amended section 248-2(2) to remove the director of taxation's power to change the percentage of fair market value used.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1874-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1874-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 500-76 Ways and Means on S.B.No. 2274-76

The purpose of this bill is to amend the procedure for adopting real property tax rates.

This bill would require the director of taxation in certifying the real property tax base for a tax year, to also certify tax rates for real property categories. The tax rates are required to be derived from the certified tax base and a county's then current budget. Where the county would seek a different level of revenues than would be realized from the director's certified tax rates, it would be allowed to do so, upon adoption of a different set of rates. The bill prescribes procedures to be followed in the event a county wishes to adopt a different set of rates.

Your Committee has amended the bill to provide that the tax rate for the forthcoming year shall be determined by using the net taxable assessed value for the forthcoming year and the county's real property revenues for the current year instead of using the net taxable real property value and the county's budget, as being more accurate. The bill uses the terms reduce and decrease interchangeably when discussing tax rate changes and your Committee has deleted the word reduce and inserted the word decrease throughout the bill for consistency. Finally, your Committee has changed the effective date from upon approval to January 1, 1977 so that both the counties and the department of taxation have sufficient time to prepare for the amendments proposed by the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2274-76, as amended herein, and recommends it pass Second Reading in the form attached hereto as S.B. No. 2274-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 501-76 Intergovernmental Relations on H.B. No. 2828-76

The purpose of this bill is to amend Section 46-6 Hawaii Revised Statutes, to provide that county ordinances, requiring a subdivider to provide land in perpetuity or to dedicate land for park and playground purposes, be adopted before January 1, 1977.

Your Committee finds that H.B. No. 2828-76 is a companion bill of S.B. No. 2208-76, which bill was also referred to this Committee. Testimony received by this Committee relative to this matter was favorable.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 2828-76, and recommends that it pass Second Reading, and be referred to the Committee on Economic Development.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 502-76      Legislative Management

Informing the Senate that S.C.R. No. 80, S.R. Nos. 328 to 340, Gov. Msg. Nos. 119 to 155, and Stand. Com. Rep. Nos. 484-76 to 501-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 503-76      Human Resources on H.B. No. 2247-76

The purpose of this bill is to exempt from the civil service, the household employees at the official residence of the President of the University of Hawaii.

Your Committee finds that under present law, positions for household employees at "College Hill" are covered by the civil service and the recruitment of these employees are subject to civil service regulations. Your Committee also finds that besides the advertizing of these positions, civil service selection procedures normally include the conduct of examinations, application of screening devices to determine the qualifications of the applicants, and certification of these applicants to employing agencies by rank order as determined by examination scores. These procedures are designed for the recruitment of personnel for general governmental operations, usually on a large scale basis.

Your Committee further finds that the household employees at "Capitol Hill" provide personalized services for the President of the University of Hawaii and his family. Therefore, your Committee feels that these household employees at "College Hill" should be placed in the same employment status as other exempt employees.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2247-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 504-76      Legislative Management

Informing the Senate that S.C.R. Nos. 81 to 83, S.R. Nos. 341 to 345, Gov. Msg. Nos. 159 to 197 and 199 to 206 and Stand. Com. Rep. Nos. 503-76 and 505-76 to 507-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 505-76      Consumer Protection on H.B. No. 2127-76

The purpose of this bill is to clarify the subpoena powers of the Office of Consumer Protection under Section 487-9, Hawaii Revised Statutes.

Presently, the Office of Consumer Protection is given full discretion to issue subpoenas to an individual, director, officer, employee, or agent of business organizations within the State in aid of an investigation or inquiry. However, questions have been raised whether the office may also issue subpoenas duces tecum to require the production and examination of books, papers, documents or objects which may be deemed relevant.

This bill is an attempt to remedy this situation by expressly providing the office the power to subpoena both individuals and the pertinent documents. Your Committee has, however, amended the bill by imposing some restriction on such power "pursuant to and in accordance with the rules of court." This amendment is intended to protect the rights of persons subject of the investigation.

Your Committee on Consumer Protection is in accord with the intent and purpose of H.B. No. 2127-76 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2127-76, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 506-76 Public Utilities on H.B. No. 2319-76

The purpose of this bill is to provide that whenever a public utility constructs a new 46KV or greater highvoltage electric transmission system through a residential area, the Public Utilities Commission shall conduct a public hearing prior to granting approval to construct the line. This bill is not intended to require public hearings for routine matters such as reconductoring lines, placing new transformers on existing systems or replacing the same type of equipment on an existing system. Rather, it is intended to cover the type of situation where a new transmission system is proposed to be installed, such as recently occurred in Palolo Valley where considerable public interest was expressed over plans to construct a new 138 KV transmission system through the Valley.

Your Committee on Public Utilities is in accord with the intent and purpose of H.B. No. 2319-76, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 507-76 Public Utilities on H.B. No. 2374-76

The purpose of this bill is to amend Section 269-16, Hawaii Revised Statutes, which covers the regulation of rates, fares and charges of public utilities.

Your Committee heard considerable testimony over a proposal to use a file and suspend concept as a means of reducing regulatory lag. Your Committee concurs with the findings of the Legislative Auditor contained in an earlier report submitted to the Legislature as well as the statements of many of the people testifying at the hearing on this bill that regulatory lag is currently at an unacceptable level and steps must be taken to reduce it. However, based on the testimony of the Director of Regulatory Agencies that additional staffing for the consumer advocate and the Public Utilities Commission should alleviate the problem of regulatory lag, your Committee decided not to adopt the file and suspend concept at the present time.

Instead, a new subsection (d) was added to Section 269-16 which mandates the Public Utilities Commission to use its best efforts to complete the rate proceeding within 9 months from the date the completed application was filed. In order for all parties to know what is expected to be included in a "completed application", the bill directs the Public Utilities Commission to set up standards concerning the data required to be set forth in the application in order for it to be approved for filing. In carrying out this legislative mandate, it is expected that the Commission will complete its deliberations in not more than 9 months in every case except perhaps one involving very special extenuating circumstances.

A new subsection (c) was added to Section 269-16 which provides that a public utility can apply for a temporary rate increase upon a showing of both probable entitlement and financial need.

This bill clarifies the law covering appeal procedures. The bill now states that only persons aggrieved in a contested case proceeding, which is more commonly referred to as an economic hearing, have the right to appeal a decision of the Public Utilities Commission to the Hawaii Supreme Court.

Your Committee on Public Utilities is in accord with the intent and purpose of H.B. No. 2374-76, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 508-76 Legislative Management

Informing the Senate that S.C.R. No. 84 and S.R. No. 346 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 509-76 Legislative Management

Informing the Senate that S.R. Nos. 347 to 349 and Stand. Com. Rep. Nos. 510-76 to 556-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 510-76 Consumer Protection on H.B. No. 2130-76

The purpose of this bill is to amend Chapter 521, Hawaii Revised Statutes, Hawaii's Residential Landlord-Tenant Code.

The bill, as amended herein, modifies the Landlord-Tenant Code in the following manner:

1. Section 521-42

This bill requires that prior to the initial date of occupancy, the landlord shall inventory the premises and make a written record detailing the condition of the premises and any furnishings or appliances provided. This amendment is intended to protect both the landlord and tenant from false, inaccurate, or misleading claims regarding the condition of the premises at the commencement of the tenancy.

2. Section 521-43

Presently, this section requires the landlord to make certain disclosures as to the owner or his agent in writing to the tenant. This bill adds a new subsection to permit the landlord to satisfy the disclosure requirements by posting the information, in an elevator or other conspicuous place, in the case of single-owner, multi-unit structures. If there is more than one owner of a multi-unit dwelling structure, the information may be posted in a conspicuous place within the unit.

3. Section 521-45

Presently, under this section, a landlord who sells a rented unit is relieved of any liability arising under the rental agreement. The proposed amendment requires that the landlord notify the new owner in writing of the existing rental agreement in order to be relieved of any liability arising from the rental agreement. The purpose is to clearly define responsibility in order to prevent the situation of the tenant not knowing who is responsible under the rental agreement.

4. Section 521-61

Presently, this section requires the landlord to put the tenant into possession of the unit at the beginning of the agreed term, but does not specify that such possession transfer must be "in the agreed condition". This amendment would conform these two sections in order to provide the tenant remedies for noncompliance.

5. Section 521-64

This section presently deals with repairs made in the rental unit by the tenant and emphasizes cost rather than the urgency of the repairs. This amendment sets up three categories of repairs based on their seriousness and urgency: (1) emergency repairs to correct imminent threat to health or safety; (2) health or safety violations; and (3) other necessary repairs. The tenant may deduct up to \$200 or one month's rent, whichever is greater, to have the emergency repairs done.

6. Sections 521-69 and 521-72

These sections currently allow the landlord to begin proceedings to evict a tenant who is in material noncompliance with the rules regulating the use and maintenance of the premises. This requirement has proven impractical and the specified period of time is too long, causing inconvenience and damage not only to the landlord, but in many cases, to other tenants within the same structure. This bill reduces this waiting period from thirty to fifteen days to enable the landlord to remedy the situation more expeditiously.

Your Committee finds that the review, reevaluation and revision of comprehensive laws such as the Residential Landlord-Tenant Code are in the best interests of Hawaii's landlords and tenants and recommends that this be a regular activity. The Committee also recommends that to keep the Code relevant and meaningful, special attention be paid to changes in the conditions which necessitated its enactment.

Your Committee on Consumer Protection is in accord with the intent and purpose of H.B. No. 2130-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2130-76, H.D. 1, S.D. 1 and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 511-76 Ecology, Environment and Recreation on H.B. No. 1441

The purpose of this Bill is to prohibit the taking, catching, injuring, killing or destroying, or attempting to do so, of any game bird, game mammal or wild bird at night.

Also provided for is the confiscation of hunting gear and other equipment used or possessed while violating the above section.

Nighthunting without permission can be dangerous. This was recently underscored when a poacher was accidentally shot and killed in the darkness by his companions who thought he was a wounded deer.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 1441, H.D. 3 and recommends that it pass Second Reading and be referred to your Committee on Judiciary.

Signed by all members of the Committee except Senator George.

SCRep. 512-76 Ecology, Environment and Recreation on H.B. No. 2210-76

The purpose of this bill is to amend chapter 195D, Hawaii Revised Statutes, in order to qualify the State of Hawaii to participate in the benefits of Public Law 93-205 (Endangered Species Act of 1973).

The 1975 legislature enacted into law Act 65 providing statutory authority to the Department of Land and Natural Resources for the establishment of programs for the preservation and conservation of all of Hawaii's unique fauna and flora, particularly threatened and endangered species of plant and animal life and providing for the full participation by the State of Hawaii in cooperative programs with the federal government as provided for in Public Law 93-205. Entry into such an agreement would preclude federal preemption of Hawaii's authority to regulate the "taking" of resident threatened or endangered fish or wildlife and make Hawaii eligible to receive federal grant-in-aid funds up to two-thirds of approved program costs.

Your Committee finds that upon review of Act 65, the Office of Endangered Species, U.S. Fish and Wildlife Service, determined that such Act does not fully satisfy the provisions of the federal act and therefore it in itself did not qualify Hawaii to enter into a cooperative agreement with the federal government pursuant to the federal act.

The administration introduced this bill in order to rectify the foregoing deficiency and thereby qualify Hawaii to participate in the benefits of the federal act.

In testifying at the public hearing on this bill the Department of Land and Natural Resources recommended the following amendments:

1. That the comma appearing between the words "ecology" and "population" on line 3 of page 3 be underlined as this comma does not appear in the existing statute.
2. That the words "by taking" on line 22 of page 4 be deleted and the words "shall take" be substituted therefor.
3. That the words "or threatened" be inserted between the word "endangered" and the word "species" on line 2 of page 5.

Your Committee has made additional amendments to this bill to correct inconsistencies within the Act. Your Committee has amended the definition of "endangered species" to mean any species of wildlife or plant that has been determined to be an endangered species pursuant to the Federal Endangered Species Act or pursuant to chapter 195D, and has amended the definition of "threatened species" to mean any species of wildlife or plant that has been determined to be a threatened species pursuant to the Federal Endangered Species Act or pursuant to chapter 195D.

Your Committee has added a new definition, "critical habitat", to conform with the federal act.

At the suggestion of the Attorney for the U.S. Fish and Wildlife Service, your Committee has amended Section 195D-4 (e) to prohibit importing such species into the State. Current statute prohibits exporting such species from the State.

Your Committee has amended Section 195D-4 (f) by providing that the department

may, under such terms and conditions as it may prescribe, enable the continued possession of such species which are being kept as family heirlooms, provided that such possession occurred before the effective date of this Act.

The chairman of your Committee has spoken with a federal solicitor of the U.S. Fish and Wildlife Service, who has informed your Committee that the proposed changes are acceptable under the federal Act.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 2210-76, H.D. 1 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2210-76, H.D. 1, S.D. 1, and be referred to your Committee on Judiciary.

Signed by all members of the Committee except Senator George.

SCRep. 513-76      Public Utilities on H.B. No. 2359-76

The purpose of this bill is to make members of the Public Utilities Commission full-time employees of the State. The bill also provides for commission staffing, including the appointment of public utilities liaison officers on Kauai, Maui and Hawaii, transferring jurisdiction of the Commission to the Department of Budget and Finance for administrative purposes only, submission of annual reports, appointment of hearings officers and the designation of the Director of Regulatory Agencies to bring matters before the Commission.

Your Committee has found that because of the heavy workload demands undertaken by the Public Utilities Commission, the present part-time commission should be changed to a full-time body. Since Statehood was achieved in 1959, the responsibilities of the Public Utilities Commission in regulating public utilities as gas, electric, telephone, sewage and transportation companies have increased at a tremendous rate. The Commission's responsibilities include the full spectrum of regulatory matters including accounting practices, safety, rate-making, financing, certification, and adequacy of services provided. Moreover, the matters which come before the Commission, especially in rate-making proceedings, are often extremely complex and involve questions dealing with various fields of knowledge such as accounting, engineering, government, financing and law. In addition, because of the nature of its responsibilities, the decisions made by the Commission can have a significant impact on the community.

Based on a comparison of the 50 states, 44 states have full-time commissions while only 6 states have part-time commissions. As to the number of commissioners, 37 states have 3-member commissions which is the number provided in this bill.

This bill provides for 6-year terms which is consistent with the position taken by 34 other states. This should attract a broad base of candidates who might wish to be considered for appointment to the Commission. Because of the complexities of the regulatory process, this will also give the commissioners more time to fully understand the many facets of public utility regulation. It also removes the 2-term 8 consecutive year limitation and provides that in lieu thereof no member shall serve more than 12 consecutive years. This is necessary to permit a commission member to serve 2 complete 6-year terms.

In order to achieve staggering of terms, the terms of the first full-time commissioners have been set at 2, 4 and 6 years.

Because of the complexities of the regulatory process, your Committee has broadened the general qualifications for commissioners.

Your Committee amended Sec. 269-2 by adding the word "government" to the list of experience required for appointment to the Commission. The governor then is directed to appoint persons with experience in accounting, business, engineering, government, finance, law or other similar fields.

Salaries of Commission members have been tied to the salary level of circuit court judges, with the chairman receiving a salary equivalent to the pay of a circuit court judge and the other Commission members receiving 95% of the chairman's salary.

Your Committee firmly believes that the Commission should have its own independent staff under its direct supervision. Such staff should have the expertise and experience necessary and essential to cope with the very large and complex tasks of regulating public utilities, to facilitate decision-making in the public utilities field, and to handle other filing and administrative functions.

Subsection (b) of Sec. 269-3 has been amended to provide a public utilities liaison

officer for each county with a population of less than 100,000. The liaison officer must reside in the county to which appointed. The liaison officer will be responsible for receiving complaints from consumers and meeting with the public utilities in the respective counties to attempt to resolve such complaints. He will report directly to the Commission. The chairman of the Commission can also appoint the liaison officer to carry out certain investigative functions for the Commission.

Because of a possible ambiguity in the present law, your Committee has added a provision to Section 269-3 which would permit the commissioners to consult with their staff in any contested case. The staff would be prohibited from consulting with any parties in a proceeding except upon notice and opportunity for all parties to participate, a practice which the Commission itself is already required to follow under Section 269-3.

An amendment to Section 269-5 now requires a more detailed and extensive annual reporting system to the Governor on all public utility matters. The Commission is also required to establish and maintain a register of all its orders and decisions which shall be open and readily available for public inspection.

Section 269-6 has been amended to permit the appointment of one of the Commission members as a hearings officer to hold hearings basically on all matters except rate proceedings and other matters relating to tariffs filed by the public utilities.

Section 269-15 has been amended to permit the Commission to institute proceedings on its own motion to enforce the requirements of Chapter 269. The Commission is also given the authority to direct the Director of Regulatory Agencies to appear in any proceedings before the Commission. Specific references to examining matters which may fall within the jurisdiction of the Federal Interstate Commerce Commission have been deleted and broader language has been substituted in its place.

In keeping with the view that the functions of the Public Utilities Commission be kept separate from that of the Public Utilities Division, your Committee recommends that, for administrative purposes only, the Public Utilities Commission be relocated to an appropriate existing department other than the Department of Regulatory Agencies which presently houses both the Public Utilities Commission and the Public Utilities Division.

The Department which seems to be best fitted to have jurisdiction over the Commission is the Department of Budget and Finance. Accordingly, your Committee has provided that the Commission shall be placed within that department for administrative purposes only. To insure the Commission's independence, your Committee has amended Sec. 26-8.

As part of the transfer of jurisdiction to the Department of Budget and Finance, Section 26-9, relating to the jurisdiction of the Department of Regulatory Agencies, has been amended to delete the Public Utilities Commission.

In order to provide for an orderly transition from the present Commission to the full-time Commission, the new Commission is granted the authority to appoint commissioners who were serving prior to the effective date of the Act as hearing officer(s) to continue to hear cases which were filed prior to the effective date of the Act. The hearing officer would submit a recommended decision to the new Commission for its approval.

Your Committee has appropriated the sum of \$391,091 for the operation of the Commission and its staff. In addition, the Director of Regulatory Agencies is transferring the sum of \$94,305 and one position to the Public Utilities Commission as newly constituted. These transferred funds represent amounts contained in Act 175, Session Laws of Hawaii 1975, which were budgeted for use by the present Public Utilities Commission. Since the new Commission will be placed in the Department of Budget and Finance, this authorization for transfer is necessary.

The sum appropriated will fund 3 full-time commissioners and 14 staff members, including liaison officer in each of the neighbor island counties.

Your Committee on Public Utilities is in accord with the intent and purpose of H.B. No. 2359-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2359-76, H.D. 1, S.D. 1 and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

Minority Report on Stand. Com. Rep. No. 513-76 on H.B. No. 2359-76

Your undersigned Minority members support the intent and purpose of H.B. No. 2359-76, H.D. 1, S.D. 1, as stated in Standing Committee Report No. 513-76 from the Senate Committee on Public Utilities, and believes that a full-time public utilities commission, after years of legislative debate, is long overdue.

Notwithstanding this support as noted, your undersigned Minority members have serious reservations regarding certain portions of H.B. No. 2359-76, H.D. 1, S.D. 1, and thus feel the issuance of this Minority Report to be necessary.

We feel that appointment of a liaison officer for each county is not necessitated by the workload involved, and while the provision for same is the result of a political compromise in a time of decreasing government efficiency and rising costs, this will take an additional unnecessary burden on the taxpayers of this State.

Secondly, we have serious reservations regarding the inordinately high salaries to be paid the members of the commission. The chairman is to receive \$42,500, the same as a circuit court judge, and the other two members are to receive 95 per cent thereof. We believe this to be in excess of the salary necessary to attract competent and qualified individuals to serve in these positions, and suggest that 80 per cent of a circuit court judge's salary would be a more appropriate amount.

Thirdly, the provisions regarding employment of assistants at page three of the bill, which empower the chairman to appoint and dismiss a chief administrator and attorney, and employ such clerks, etc., as may be necessary, place far too much unfettered discretion in the hands of one individual. We believe these powers should be conferred upon the commission, rather than an individual.

Finally, we believe the effective date of the Act should be January 1, 1977 instead of June 1, 1976 as the bill provides. The June 1, 1976 effective date makes little sense, as it corresponds with neither the calendar or fiscal year. More importantly, as the legislature will not be in session at that time, the effective date makes a mockery of the Senate power of confirmation. It is our belief that the Senate should re-assert its powers to advise and consent on these nominations. If an unsatisfactory appointment is made in June, it is conceivable that a special session, at great cost to the taxpayers, would be necessary to hold confirmation hearings. Further, these appointments, in our judgment, should coincide as practicably as possible with changes in state administration. The Constitution, with good reason, provides that the cabinet shall change with the administration, and as the public utility commissioners are accorded cabinet level salary, their confirmation process should parallel that of cabinet members as closely as is practicable.

At the very least, if the effective date is to remain June 1, 1976, the Governor should be required to submit his nominations for confirmation by the Senate prior to the conclusion of this legislative session.

For these reasons, although your undersigned Minority members are in accord with the intent and purpose of H.B. No. 2359-76, H.D. 1, S.D. 1, we recommend that it pass Second Reading subject to the reservations expressed herein and urge the Committee on Ways and Means to amend the bill to conform with the reservations stated herein.

Signed by Senators Anderson and Leopold.

SCRep. 514-76      Public Utilities on S.C.R. No. 30

The purpose of this Concurrent Resolution is to request the Director of Regulatory Agencies and the Public Utilities Commission to act promptly and to take necessary and proper steps to correct the many management and administrative deficiencies identified in the legislative auditor's audit report.

After listening to the testimonies presented, your Committee believes that much of the discrepancies noted in the audit report can be corrected by adopting and following the recommendations set forth by the Legislative Auditor.

Your Committee also believes that the Public Utilities Commission and the Director of Regulatory Agencies be requested to submit a comprehensive report on all actions taken to alleviate the deficiencies identified in the management and administrative report on the public utilities program to the 1977 Legislature no later than 20 days before it convenes.



Your Committee on Public Utilities concurs with the intent and purpose of S.C. R. No 30 and recommends its adoption.

Signed by all members of the Committee except Senator Anderson.

SCRep. 515-76 Public Utilities on S.C.R. No. 32

The purpose of this concurrent resolution is to request the Director of Regulatory Agencies, with the assistance of the attorney general and the public utilities commission, to undertake a thorough review of the regulation of cable television systems and to recommend changes necessary to overcome deficiencies and shortcomings identified by the Legislative Auditor in his recent audit of the public utilities program.

Your Committee is in agreement with the Legislative Auditor that there are many deficiencies and shortcomings presently existing in the cable television systems industry, including the lack of, or inadequate, policies, rules, and administrative and enforcement machinery. These deficiencies need to be corrected in order to expedite the expansion of cable television services through out the state and to insure delivery of quality service to consumers.

Your Committee on Public Utilities concurs with the intent and purpose of S.C.R. No. 32 and recommends its adoption.

Signed by all members of the Committee except Senator Anderson.

SCRep. 516-76 Human Resources on H.B. No. 942

The purpose of this bill is to provide an increase of eight percent to the regular bonus and to the special cost-of-living bonus for those who retired prior to July 1, 1965 only.

Your Committee finds that the pensioners bonus is a benefit which was originally conceived in 1945 to offset the rising cost-of-living and consists of two types: a regular bonus and a cost-of-living bonus. The regular bonus is payable basically to those who have ten or more years of service, who retired prior to 1965 and who are not eligible for Social Security benefits. The bonus has been increased throughout the years each time active employees received a salary increase to offset the rising cost-of-living. The special cost-of-living bonus was first paid in 1965 to those who retired prior to July 1, 1965 when the present liberal two percent benefit retirement formula was adopted. This bonus is based on a percentage of the member's basic allowance and started as a seven and a half percent increase as of January 1, 1966. Each time a salary increase was provided active employees, a similar percentage increase was provided pensioners who retired prior to July 1, 1965 with the most recent being a five and a half percent increase in 1974. Although this benefit is an addition to the post retirement allowance and to the regular bonus, your Committee feels that the regular bonus, cost-of-living bonus, and post retirement allowance have not overcome the increase in the cost-of-living.

Your Committee also finds that in 1974, the Legislature provided a special cost-of-living bonus to those who retired between July 1, 1965 and June 30, 1970 because this group did not participate in the liberal salary increases and the cost-of-living far exceeded the annual post retirement increase of two and a half percent. This benefit was five and a half percent of the basic retirement allowance.

Your Committee further finds that to increase the bonus an appropriation of \$409,000 is needed and the effective date has been changed to clarify section 1, sub-paragraphs (1) to (4) of this bill.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 942, H.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 517-76 Human Resources on H.B. No. 2022-76

The purpose of this bill is to have the Commission on Aging or the Executive Office on Aging, as the case may be, establish state policy for senior centers. The policy shall include, but not be limited to, the establishment of long range and immediate goals and objectives, state standards for the operation and maintenance of senior centers, priorities for program implementation, delineation of state and county roles relative to the administration of centers and the establishment of a monitoring mechanism.

Your Committee finds that since its development in 1968 and 1969, senior centers have

proliferated throughout the State. These public and privately sponsored centers have become a gathering place where senior citizens can participate in activities which are satisfying and fulfilling and receive services that can assist them in their daily living.

Furthermore, your Committee finds that although the State does not have a network of senior centers with a coordinated system of administration and operation, senior centers have operated successfully on the neighbor island counties of Maui, Kauai, and Hawaii. On Oahu, however, a lack of coordination and leadership appears. Because of the variety of arrangements and preferences in the operation of service center programs, a clarification of the roles and responsibilities of state and county governments in this area is needed. Such a policy would allow for maximum effectiveness in administering Hawaii's senior centers.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2022-76, H.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 518-76 Human Resources on H.B. No. 3106-76

The purpose of this bill is to establish procedures for the appointment of the Manpower Planning Administrator by the Director of the Department of Labor and Industrial Relations with the concurrence of the State Manpower Services Council. This bill further provides that the position will be exempt from civil service provisions.

Your Committee finds that the Manpower Planning Administrator heads the Office of Manpower Planning which was established on October 1, 1974 by the Governor. The Comprehensive Employment and Training Act (CETA) of 1973 necessitated the creation of an Office of Manpower Planning to administer CETA programs. Your Committee further finds that presently, the Manpower Planning Administrator is appointed by the Governor.

Your Committee believes that the Office of Manpower Planning should be headed by an individual who is in harmony with the philosophies, policies and political persuasion of the Governor of the State and the State Manpower Services Council. This bill would provide the procedure needed to ensure the selection of such an individual and to establish a compensation rate which would be equitable with other positions of comparable responsibility and stature in the service of the State government.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 3106-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 519-76 Human Resources on H.B. No. 2904-76

The purpose of this bill is to protect employees who are required under the Hawaii Occupational Safety and Health Law to be trained and certified in first aid, from lawsuits arising out of the rendering of first aid in good faith.

Your Committee finds that given the natural inclination to aid a person in distress, attempts at assisting an ill or injured person will be made even in the absence of appropriate training. The first aid training and certification requirement is a means of assuring the presence of persons in each establishment to render assistance properly.

Your Committee believes that this bill will ensure that employees who are required under the Hawaii Occupational Safety and Health Law to be trained and certified in first aid, will not be held liable for any civil damages resulting from the rendering of first aid in good faith.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2904-76, H.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Anderson.

SCRep. 520-76 Human Resources on H.B. No. 3112-76

The purpose of this bill is to amend the state public assistance statutes, to conform

with federal statutes and regulations and to be consistent with the legislative intent of previous amendments to this chapter.

The specific amendments proposed in the bill are as follows:

a) Repeal of Section 346-28 Transportation Transportation allowance is no longer necessary as a special item. Pursuant to Act 145, SLH 1975, this allowance has been fairly averaged and fairly priced into the monthly standard allowance.

b) Section 346-29 Applications for public assistance; manner, form, conditions: The bill amends the definition of "net income" with regard to the Department's determination of need, by providing that "net income" for all cases shall be such income as the Social Security Act or other federal acts may require. The proposed amendment would allow the State to conform to federal statutes and regulations on an on-going basis, as well as allow for uniform application of the federal definition of income for all public assistance cases.

The bill amends subsection (5) of section 346-29 by designating the responsibility for defining "liquid assets" to the Department.

c) Section 346-53 Determination of amount of assistance: The bill amends subsection (c) of section 346-53 which deals with public assistance to children living in the homes of non-needy relatives and provides that the Department shall pay for shelter allowance on behalf of these children.

Your Committee on Human Resources is amending Section 346-53, Subsection (c) by making it clear that a child living with either a non-needy or needy caretaker will receive a basic needs allowance and shelter allowance as provided in this chapter. The purpose of this revision is to comply with the U.S. Supreme Court decision of Taylor vs. Lavine, prohibiting presumptions of income available to an AFDC child from non-needy caretakers.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. 3112-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3112-76, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 521-76 Human Resources on H.B. No. 2812-76

The purpose of this bill is to amend Chapter 387, Hawaii Revised Statutes, which deals with the Hawaii Wage and Hour Law, by excluding a seasonal youth camp staff member in resident situations in youth camps from coverage of the minimum wage law.

Your Committee finds that camping provides a child with a knowledge of camping skills, knowledge and wise use of the environment, and a chance to improve physical and social skills. Camp staff members live within the camp for the duration of the camping period and are generally on duty 24 hours a day because of their responsibility for the safety and well-being of the campers. In such instances, it is difficult to determine hours of work and whether all conditions are under the control of the employer. Your Committee further finds that if such camp staff members are not exempt from the minimum wage law, youth camp organizations would be unable to pay their employees and thus force the camp to close.

Your Committee has amended the bill by deleting the word "seasonal" to ensure that youth camps which provide year-round activities are also covered under this bill.

Your Committee finds that many of the youth camps are sponsored by charitable, religious, or nonprofit organizations and it is sometimes difficult to determine hours of work and whether a worker is an employee or a volunteer. Your Committee further believes that these amendments will enable public and private youth camps which provide seasonal or year-round activities to continue their valuable services to the community.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2812-76, H.D. 1, as amended in the form attached hereto as H.B. 2812-76, H.D. 1, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 522-76 Economic Development on H.B. No. 2377-76

The purpose of this bill is to enact certain changes in the Fishing Vessel Loan Program for purposes of clarification.

One proposed change provides size qualifications to distinguish between "large" and "small" fishing vessels for purposes of clarifying the existing statute: large fishing vessels are defined as any vessel five net tons or over, and small fishing vessels are defined as any vessel under five net tons. The bill proposes to further clarify the statute by incorporating the terms "large" and "small" into the program titles and purposes. A third change seeks to provide small fishing vessel owners with the identical financial assistance provided to large fishing vessel owners by expanding the Hawaii Commercial Fishing Vessel Maintenance and Repair Loan Program to include purchase, construction and renovation as qualifying for financial assistance. The fourth proposed change would correct an apparent oversight by empowering the Department of Planning and Economic Development to adopt rules and regulations pursuant to the administration of the Fishing Vessel Loan Program. Moreover, a final change seeks to eliminate possible confusion regarding the annual report requirement by providing that the report shall be due by February 1 for the prior year's operation.

Your Committee finds that additional changes are needed to clarify the statutory authority granted to the Department of Planning and Economic Development. Therefore, the language has been changed in two sections to provide that the Director of the Department of Planning and Economic Development shall (rather than may) be empowered to promulgate rules and regulations pursuant to the administration of the fishing vessel loan programs.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2377-76, as amended herein, and recommends that it pass Second Reading and be referred to your Committee on Ways and Means in the form attached hereto as H.B. No. 2377-76, S.D. 1.

Signed by all members of the Committee.

SCRep. 523-76 Ecology, Environment and Recreation on H.B. No. 2941-76

The purpose of this Bill is to amend Chapter 188, Hawaii Revised Statutes, by adding a new section which would prohibit removal of corals from waters of the State without a permit from the Department of Land and Natural Resources, and to amend Chapter 205-33, subsection (a), Hawaii Revised Statutes, which pertains to removal of sand, coral, rock, soil, and beach compositions from the shoreline and adjacent water areas of the State, by removing the word "coral" from that subsection.

Your Committee finds that this measure will strengthen the existing authority of the Department of Land and Natural Resources to manage and protect the coral resources of the State, while permitting proper and productive utilization of the State's precious corals.

Your Committee has amended the Bill to provide that the Department of Land and Natural Resources may regulate the management of all coral as a renewable resource, by deleting that section of the Bill which reads, "Such rules shall limit removals to those for research, educational, and scientific purposes, or removal to prevent or arrest disease or protect the health of coral beds," by deleting the words "precious" and "for commercial purposes," and by providing language which reads, "Removals of corals may be permitted at rates not exceeding those of natural replacement."

Your Committee has further amended the Bill to correct a typographical error in SECTION 3, in which the word "lawful" was inadvertently typed as "unlawful," which would have vitiated that section of the statute.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 2941-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2941-76, H.D. 1, S.D. 1, and be referred to your Committee on Economic Development.

Signed by all members of the Committee except Senator George.

SCRep. 524-76 Ecology, Environment and Recreation on H.B. No. 3075-76

The purpose of this Bill is to define the ownership of all municipal wastes generated in the State.

Your Committee finds that the recovery and re-use of solid waste is ecologically sound and should be encouraged. However competition for the selling of products recovered from solid waste may result in legal complications in the future. This situation can be avoided by the clarification of ownership of all municipal wastes.

This Bill provides that unless otherwise provided by county ordinance the owner of solid waste shall be the collector, until same is deposited with an operator, or in the absence of a collector, the generator of such waste until the same is deposited within a transfer station or landfill site, and the operator, until such time as the residues of processing or unprocessed materials are disposed of at a certified disposal site or accepted by a collector.

Your Committee has amended the bill to provide that the generator shall be the owner until such time as the solid waste is collected.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 3075-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3075-76, H.D. 1, S.D. 1 and be referred to your Committee on Judiciary.

Signed by all members of the Committee except Senator George.

SCRep. 525-76      Judiciary on H.B. No. 934

The purpose of this bill is to limit the retainage allowed under a public contract and to require sums withheld to be placed in interest-bearing escrow accounts.

This bill limits the retainage in public contracts to a maximum of five per cent of the amount due the contractor until fifty per cent of the contract is completed with no retainage allowed thereafter as long as progress has been satisfactory. If the contracting officer determines that progress is not satisfactory, he may continue to withhold as retainage a sum not exceeding five per cent of the amount due the contractor. His decision shall be binding upon the parties.

Your Committee recommends that this bill be amended to delete the provisions requiring the retainage to be placed in interestbearing escrow accounts.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 934, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 934, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 526-76      Judiciary on H.B. No. 2001-76

The purpose of this bill is to amend Act 197, Session Laws of Hawaii 1975, to provide additional funds to the Judiciary operating budget for fiscal year 1976-77 and supplemental funds for the Judiciary capital improvements budget in the same fiscal year.

Your Committee recommends that this bill be amended as follows:

(1) Deletion of that part of Section 7 of the bill which provides \$28,080 for the addition of three (3) Security Guard II positions, one for the Judicial Complex at the State Building, Hilo, Hawaii; one for the Judicial Complex at Wailuku, Maui; and one for the Judiciary Complex at Lihue, Kauai.

(2) At page 2, item number 6 of the bill, under the program heading, Administration Director, delete 25.00\* and 784,111A under the column designated FY 1976-77 and 1,445,055A under the column designated Total Biennium and insert in lieu thereof, 20.00\*, and 701,676A and 1,362,620A, respectively. The purpose of this amendment is to keep the requirement of providing security for the Judicial Complex on Oahu with the Office of the Attorney General.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2001-76, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2001-76, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 527-76      Judiciary on H.B. No. 2136-76

The purpose of this bill is to clarify the existing law relating to the deposit of legal tender, certificates of deposit, cashier's check or certified check when accompanying a bid.

Sections 102-6 and 103-28, Hawaii Revised Statutes, as amended, provide for a deposit of legal tender, certificate of deposit, cashier's check or certified check, for or in a sum equal to five per cent of the amount bid; provided that the amount exceeds \$50,000, the legal tender, certificate of deposit, cashier's check or certified check shall be for \$2,500 plus two per cent of the amount in excess of \$50,000.

Such deposit is specified to be a definite sum related to the amount bid. The Department of Accounting and General Services testified that bidders often submit deposits in excess of the amount required and these normally do not pose a problem and they are accepted as a general practice. The Department has had instances when a bid must be rejected because the deposit amount is less than required. In some of these instances the rejected bidder argued that the bids accompanied by deposits in excess of the amount specified should also be rejected since they, too, do not conform with the existing statute. By adding the words "not less than" to said Section 102-6 and 103-28, the problem can easily be corrected.

Your Committee recommends that this bill be amended for purposes of clarity without changing the substantive provisions by deleting the words "for or" before the words "in a sum" in lines 7 and 10 on pages 1 and 2 respectively of the bill. Your Committee further recommends that the word "for" be deleted in line 11 on page 1 and the words "no less" be amended to "not less."

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2136-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2136-76, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 528-76      Judiciary on H.B. No. 2150-76

The purpose of this bill is to amend Section 456-2, Hawaii Revised Statutes. The bill eliminates the durational residence requirements that a prospective notary public be a resident of the State for one year; lowers the age for notaries public from twenty to eighteen years of age; and increases the fees charged to notaries public by the attorney general for the issuance or renewal of a notary public commission and by the circuit courts for filing a copy of a notary public commission and for a certificate of authentication.

The elimination of the durational residence requirement is a housekeeping measure since a number of judicial decisions in recent years have made it clear that a durational requirement relating to residency cannot be upheld. Lowering the age requirement is in conformity with the recent change in the age of majority for voting and holding public office. The increase in fees charged notaries public by the attorney general and the circuit courts is necessary due to the increased administrative costs.

Your Committee recommends that this be amended to increase the bond amount for notaries in each judicial circuit to \$5,000 and eliminate the differential in bond amount that presently exists.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2150-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2150-76, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 529-76      Judiciary on H.B. No. 2181-76

The purpose of this bill is to provide the sum of \$25,000 for the State Law Enforcement Planning and Juvenile Delinquency Agency to develop a master plan for the criminally insane.

At the present time there is a demonstrated need for rational and proper commitment, treatment and care of the criminally insane. This bill proposes that the State Law Enforcement Planning and Juvenile Delinquency Agency oversee the implementation of the

master plan for the criminally insane and seek appropriate input from community agencies, both public and private, to carry out the study and development of the master plan.

Your Committee recommends that the bill be amended by deleting the words "Section 21" and insert in lieu thereof the words "Section 2" in line 11 on page 1 for technical reasons.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2181-76, H.D. 1 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2181-76, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 530-76 Judiciary on H.B. No. 2230-76

The purpose of this bill is to amend the existing law by increasing the examination fee from \$25 to \$35.

This increase is necessary inasmuch as the Professional Examination Service, New York, which prepares and grades the examination, has recently raised the service cost from \$25 to \$30 for each candidate. The additional \$5 will help defray the costs of the Division's examination staff in arranging for the examination room, monitoring the examinations and preparing and mailing instructions and examination results to candidates.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2230-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 531-76 Judiciary on H.B. No. 2312-76

The purpose of this bill is to appropriate the sum of \$10,181,000 for the phased planning and construction of the Intake Service Center/Community Correction Center for Oahu, Hawaii, Kauai, Maui and the Oahu High Security Facility in accordance with the Hawaii Correctional Master Plan. The Director of Finance is authorized to issue general obligation bonds of the State to yield the amount appropriated by this bill.

Act 179, Session Laws of Hawaii 1973, was enacted to provide the legal basis for implementing the Hawaii Correctional Master Plan. Your Committee is in accord with the Master Plan which envisions a continuing process over several years the following: (1) coordination, cooperation and integration in a systematic plan of all agencies affecting corrections; (2) use of community and institutional resources for the treatment of committed persons; (3) the introduction of new programs for treatment; (4) better information and evaluation resources in treating committed persons; and (5) the construction of new facilities and new equipment for accomplishing the purposes of the Master Plan.

A major element involving systems, programs, procedures, and facilities is the construction of community correctional centers and intake service centers for each of the counties and a high security correctional center to be located on Oahu. The Master Plan provides that the community correctional centers and the intake service centers may have an integrated operation. The community correctional center will provide residential care and custody for committed persons convicted of misdemeanor offenses and certain lesser felony offenses, and a wide range of counseling, evaluation, rehabilitation and adjustment programs. Intake service centers will provide initial processing, evaluation, and guidance services for volunteer referrals, and admitted persons, a monitoring of persons placed in correctional programs, and services and programs similar to those in community correctional centers. The High Security Facility on Oahu under the direction of the Department of Social Services and Housing will hold high custodial risk convicted felons or those awaiting trial and provide an extensive range of counseling, medical, adjustment, and training programs for them. Your Committee recommends that there be a continued evaluation of the programs with the view towards meeting the needs of the offender and resocializing the offender so that he may be reintegrated into the community.

The Intake Service Centers/Community Correctional Centers for Oahu, Maui, Kauai, and Hawaii and the Oahu High Security Facility are planned for construction during 1976 and 1977, a matter of immediate importance in view of the inadequacy of the archaic correctional facilities now available. Your Committee is very concerned, however, with the escalating costs of this project over initial estimates and will continue to study the reasons for said escalating costs.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2312-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 532-76      Judiciary on H.B. No. 2375-76

The purpose of this bill is to designate the Director of Regulatory Agencies as the consumer advocate in hearings before the Public Utilities Commission and to charge him with the responsibility for representing, protecting, and advancing the interest of consumers of utility services.

Under existing law the Director of Regulatory Agencies is charged with the general responsibility of protecting the interests of consumers. However, as this duty relates to the proceedings of the Public Utilities Commission, the Director, the Commission and the staff of the Public Utilities Division (PUD) of the Department of Regulatory Agencies are placed in awkward and conflicting positions. The Public Utilities Commission is placed in the Department of Regulatory Agencies for administrative purposes and the Director provides staff support to the Commission with Department employees, i.e., the PUD. The Commission has no staff directly under its control except for an attorney which it is authorized to employ. In his role as the consumer protector, the Director relies on the PUD to advocate his position before the Commission while at the same time, the PUD is providing services to the Commission. This commingling of functions within one department has resulted in confusion as to the roles, functions and responsibilities of the Commission, the PUD and the Director in public utilities regulation.

This bill, in conjunction with H.B. No. 2359-76 resolves this confusion by clearly defining the roles of the Director of Regulatory Agencies and the Public Utilities Commission in the regulatory process. Under this bill the Director is charged with the consumer advocacy function and provided with a staff to carry out this function and the Commission, under H.B. No. 2359-76, is separated from the Department of Regulatory Agencies and given its own staff. This is in accord with the recommendations of the Legislative Auditor contained in his report on the public utilities program of the State (Audit Report No. 75-3).

Your Committee is in agreement that the designation of a consumer advocate for public utility matters is highly desirable and that this approach will strengthen the regulatory process.

The utility companies expressed some concern about the authority of the Director going on a "fishing expedition" requesting information. Your Committee feels that the interests of the utility companies are protected by the words "reasonably relevant" and "reasonably required" and also the sentence "Any such request shall set forth with reasonable specificity the purpose for which the information is requested and shall designate with reasonable specificity the information derived. In addition, the utility companies have the right to object to a demand for information by the Director and to have a hearing before the Public Utilities Commission as to the reasonableness of the demand for information.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2375-76, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 533-76      Judiciary on H.B. No. 2438-76

The purpose of this bill is to appropriate funds from the general revenues of the State of Hawaii the sum of \$265,810.79 to compensate persons pursuant to Chapter 351, Hawaii Revised Statutes.

During the year 1975, 63 victims, 33 doctors, 27 hospital cases, 30 attorneys, and 2 mortuaries were determined eligible to receive compensation under the Criminal Injuries Compensation Act.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2438-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and George.



SCRep. 534-76      Judiciary on H.B. No. 2626-76

The purpose of this bill is to provide the sum of \$675,350 for the continued operation of the Legal Aid Society of Hawaii.

Your Committee finds that the Legal Aid Society of Hawaii provides needed legal services to a substantial number of people in this State who could not otherwise obtain such legal services. Your Committee is in agreement that continued operation of the Legal Aid Society of Hawaii is necessary at this time. Your Committee recommends that the Legal Aid Society of Hawaii meet monthly to review and amend its priorities as necessary and attempt to minimize turning away of potential clients whenever possible. In addition, your Committee recommends that cases presenting danger of physical violence to the client's children be given immediate attention and be exempted from the two month waiting period presently required in domestic relations cases.

Your Committee recommends that this bill be amended to designate the office of the governor rather than the department of budget and finance as the expending agency and to protect the attorneyclient relationship in the State review of the records and files of the Legal Aid Society.

Your Committee recommends that this bill be further amended for technical and clarification reasons.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2626-76, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2626-76, H.D. 2, S.D. 1 and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 535-76      Judiciary on H.B. No. 2715-76

The purpose of this bill is to establish a special revolving fund for each correctional facility store for the purchase of items to be resold to inmates or for the purchase of other goods or services for the benefit and needs of the inmates.

The creation of a special revolving fund eliminates the need to withdraw and subsequently reimburse general funds continually for purchase of items for resale from the correctional facility store receipts. Your Committee finds that this bill will facilitate efficient operation of all correctional stores, including the newly acquired facilities at the Halawa Correctional Facility and the Hawaii Community Correctional Facility, and also, it will encourage the stores to become selfsustaining. The Director of Social Services and Housing has the discretionary power to expend the proceeds of the fund for the above-mentioned purposes.

Your Committee recommends that the bill be amended for technical reasons without any change in the substantive provisions.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2715-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto, as H.B. No. 2715-76, H.D. 1, S.D. 1 and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 536-76      Judiciary on H.B. No. 2783-76

The purpose of this bill is to limit the retainage allowed under a public contract and to allow a contractor to withdraw from time to time the whole or any portion of the sum retained upon depositing with the contracting officer bonds or notes of the State, or any political subdivision of the State, with a market value equal in amount to the sum to be withdrawn.

Your Committee recommends that this bill be amended to delete the provisions limiting the retainage allowed under a public contract to five per cent of the amount due the contractor.

Your Committee further recommends that this bill be amended to allow the contracting officer to enter into an agreement with the contractor which will allow the contractor to withdraw from time to time the whole or any portion of the sum retained under a public contract upon depositing with the contracting officer any government bond with a market value not less than the sum to be withdrawn. The contracting officer shall not be obligated to collect any interest on the government bond deposited with him. Your Committee finds

that the contracting officer shall have the discretionary power whether or not to accept any government bond. His decision shall be binding upon the parties.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2783-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto, as H.B. No. 2783-76, S.D. 1 and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 537-76      Judiciary on H.B. No. 3052-76

The purpose of this bill is to increase the fees to be paid to witnesses, other than a public official or employee, required to attend a court proceeding in any criminal case or a grand jury proceeding.

Your Committee finds that the existing fees and per diem expenses for witnesses who are legally required to attend a court in a criminal proceeding or a grand jury proceeding are inadequate.

Accordingly, your Committee favors an increase in witness fees in criminal cases to \$10 and per diem expenses for witnesses attending court proceedings in criminal matters on islands other than their residence to \$15 for each day's attendance. Your Committee also favors the payment of \$30 in per diem expenses for those witnesses required to stay overnight.

Your Committee amended the bill to ensure that there will be no question that a witness who is required to stay overnight will be entitled to \$30.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3052-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3052-76, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 538-76      Housing and Hawaiian Homes on H.B. No. 2167-76

The purpose of this bill is to delete the \$6,000 salary ceiling for the position of the sanitation and reclamation expert.

Your Committee finds that the \$6,000 salary ceiling is unrealistic and that by deleting the salary ceiling, the Department would be allowed more flexibility in employing a qualified person.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2167-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 539-76      Housing and Hawaiian Homes on H.B. No. 2256-76

The purpose of this bill is to require boards of directors of all associations of apartment owners of condominium projects to purchase and at all times maintain insurance which covers the common elements and, whether or not part of the common elements, all exterior and interior walls, exterior glass, floors, and ceilings against loss or damage by fire and such other hazards, including flood insurance if the property is located in an identified flood hazard area as designated by the federal Department of Housing and Urban Affairs, sufficient to provide for the repair or replacement thereof in the event of such loss or damages. The bill further provides that the insurance carrier shall annually provide the board of directors with a written summary, in layman's terms, of the insurance coverage and that the board of directors shall be responsible for its dissemination to each apartment owner.

Under present law, the manager or board of directors, if required by the declaration, bylaws, or a majority of the apartment owners, is required to obtain insurance for the property. Your Committee agrees that in order to protect condominium owners, all condominium projects should be required to have the insurance coverage required by this bill and that the owners should be made aware of the nature and extent of such coverage.

Your Committee has amended the bill to correct the misspelling of the word "flood"

on page 1 line 13, and to include original furnishings supplied by the developer as among the items to be covered by the insurance purchased by the association.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2256-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2256-76, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Kuroda and Anderson.

SCRep. 540-76      Housing and Hawaiian Homes on H.B. No. 2335-76

The purpose of this bill is to provide assistance through loans to residents for the rehabilitation or renovation of housing units.

Your Committee, in analyzing Hawaii's housing problems, has determined that consistently high site development, construction, and financing costs account for much of the high cost of delivered new housing units in the State. These same factors are deemed responsible for the often prohibitive cost of renovating, rehabilitating, and otherwise maintaining the liveability of the existing housing stock. Your Committee feels that, while increased public efforts to produce reasonably priced new housing remains a major task, greater attention must be paid to the State's existing housing. This bill would enable homeowners, otherwise unable to afford to rehabilitate or renovate their units, to obtain state assistance to keep units in use, and to meet increasing standards of residential quality.

Your Committee feels that the assistance program authorized by this bill is necessary, and has considered how renovation and rehabilitation programs can be structured to effectively channel resources to housing units serving the greatest need, and to allocate necessarily limited resources in a proper manner. To achieve these purposes, numerous amendments have been made, in addition to many stylistic changes.

Major substantive amendments made by your Committee include the following:

1. Loans are to be made by the Hawaii housing authority for four purposes: to meet minimum provisions of applicable state or county codes or laws; to increase the supply of units available to persons of low and moderate income; to meet recognized standards of residential liveability; or to make improvements needed to meet code, legal, or recognized standards, but which are experimental or innovative in nature.

Your Committee feels that, in view of limited funds and widespread needs, a state loan program should supplement, rather than compete with, private lenders offering funds for home improvement, and that loan funds should be allocated to the development and maintenance of low and moderate income housing. Your Committee recognizes that, in limited cases, loan funds may be properly used to produce new, moderately priced rental units in existing structures, thereby assisting the homeowner, the potential renter, and the State's housing supply in general.

2. Loans are to be limited to owner-occupied, single-family units, owner-occupied units which also contain not more than two other dwelling units in the same structure or complex of structures, or multiple-unit structures which are cooperatively owned.

Your Committee has made this amendment on the basis that these three categories provide the best basis for providing reasonably priced housing, and are the categories least served by existing home improvement lending practices.

3. More specific standards have been set on what residents are to qualify for the loan assistance program.

Your Committee has amended qualifications both for homeowner participation and for housing units which could be assisted. Your Committee feels that such specification is necessary, in view of possible competition for funds, although the Hawaii housing authority, which will administer the program, is authorized to establish further standards by rule.

4. Provisions permitting the Hawaii housing authority to set land use rules superceding those of the counties for application to this program have been deleted.

Your Committee feels that the "zoning override" provision for permitted rehabilitation and renovation projects would be both administratively unworkable (requiring, for example, an elaborate override procedure for as little as one \$1,000 renovation project)

and highly difficult to reconcile with county planning and zoning activities. It has accordingly been deleted.

5. Loans are permitted to be granted for projects which will be substantially completed through use of donated labor.

Your Committee has determined that funds may be used in a more cost-efficient manner if such projects are permitted. Many residents are, or can be trained to be, skilled participants in their own dwelling unit improvements. Requirements that a licensed contractor supervise all projects have been retained for the protection of the State, the homeowner, and the general public.

6. Provisions permitting the Hawaii housing authority to increase the rate of interest on loans after five years to the maximum rate of interest have been deleted.

Your Committee finds that such a provision is inappropriate, since the purpose of this bill is to make reasonable interest loans available, and since this bill is not primarily a revenue measure.

7. The Hawaii housing authority is authorized to contract with any county housing agency to make and service loans under this section.

8. The Hawaii housing authority is permitted to require loan applicants to elect either to place a ceiling on rents to be charged or to make the rehabilitated or renovated rental unit available for use in any rental program the authority administers.

This provision is to be applied, at the discretion of the authority, only to units which are to be used as rental units. Your Committee feels that, should economic and housing market conditions change markedly, the Hawaii housing authority should have some flexibility to administer limited loan funds in the interests of maintaining reasonable housing costs for the general public.

9. The \$1,000,000 bond authorization for this program has been increased to \$5,000,000.

Your Committee has determined that the bond authorization originally contained in the bill would provide only about 100 to 150 loans. In view of the condition of the State's housing stock, meeting even the severest needs would require greater state assistance.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2335-76, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2335-76, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 541-76      Housing and Hawaiian Homes on H.B. No. 2717-76

The purposes of this bill are to increase the ceiling on replacement, construction, and repair loans made to lessees, to allow more flexibility in using the Development Fund, to provide for a Statewide Replacement Loan Fund and General Home Loan Fund; to provide more flexibility in interest rates; and to make minor clarifying amendments in the Act.

Under Sections 213 and 215 of the Hawaiian Homes Commission Act, 1920, as amended, the ceiling for construction and replacement home loans to lessees is \$25,000. It has been increasingly difficult to negotiate contracts for 3-4 bedroom homes of at least 1,300 square feet for \$25,000 at present building costs. Thus, raising the \$25,000 ceiling to \$35,000 would alleviate severe constraints on the quality and size requirements.

The present ceiling on repair loans is \$5,000. Increasing the limit on repair loans from \$5,000 to \$10,000 would encourage greater maintenance of homes and would therefore decrease need for replacement homes.

The Hawaiian Homes Development Fund presently restricts the use of this fund to the construction of sanitary sewage facilities, roads through Hawaiian Home Lands and other nonrevenue producing improvements. By broadening the provisions of the Hawaiian Homes Development Fund, it would allow the Department to: (1) properly maintain deteriorating assets; (2) permit authorization of projects where funding constraints have precluded progress; (3) permit purchase of equipment and construction required; and (4) allow for development of offsite and onsite improvements.

The Legislature has approximately \$5,250,000 for a revolving Statewide Replacement Loan Fund, and such a fund would provide the Department with the necessary tool to make funds available. The establishment of the General Home Loan Fund is intended to be used for appropriations by the Legislature which are not specified for disbursement through any other fund.

The proposed amendment to change the various subsections relating to interest rates is intended to provide for consistency in application. The interest rates of two and one-half per cent or higher will be determined by the Department upon the borrower's ability to pay and the option to enforce higher interest rates by ability to pay will assist in alleviating the financial deficit problem.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2717-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 542-76      Housing and Hawaiian Homes on H.B. No. 2718-76

The purpose of this bill is to permit the Department of Hawaiian Home Lands maximum potential use of its funds authorized for planning, surveying, site preparation and development, and road improvement.

Presently, authorization for a number of Hawaiian Home Lands CIP projects restricts the use of these funds to such an extent that the maximum use of these funds is not possible. In other words, the Department could not prepare, for example, 30 lots for approximately the same price as 25 lots unless flexibility is authorized.

There is sufficient area at Kuhio Village, which has a waiting list of 135, to construct 40 plus lots. One of the factors affecting the economics of the proposed housing package for the area is the amount of units to be built. More units will allow for a better house at a cheaper price.

The City and County of Honolulu has programmed the sewer trunk-line to the Waianae sewage treatment plant to be in place in the Nanakuli area by 1981. Should the Department proceed with road improvements without the sewer lines, it would necessitate coming back at a later date, breaking up the new roadway improvements to install sewer lines. This request is to allow the road improvements and the sewer lines to be done simultaneously.

The estimated cost of designing a sewage treatment plant and sewer line for the Anahola subdivision is approximately three times the amount originally appropriated. In addition, further research indicated there were no cesspool problems in the Anahola area over the past year and a comprehensive research and planning effort for the area should be undertaken before any requests are made for specific activities.

Your Committee has made the following amendments to H.B. No. 2718-76 to allow the Department of Hawaiian Home Lands the flexibility to use the allotted moneys up to its maximum potential use.

1. Deleting the word "approximately" and adding the words "or more" wherever it occurs.

2. Deleting, wherever necessary, the specific increments in which construction should be completed and replacing it with the clause "incremental development of".

Your Committee has further amended the bill to include in section 88, Part IV, Act 195, SLH 1975, Item F-1 the subdivisions of Molokai and Waimea, Hawaii; in Item F-2 the subdivisions of Anahola, Kauai and Kekaha, Kauai, and to expand loan capitalization to include interim financing for these two items.

Your Committee has further amended the bill by amending Item F-8 of section 72, Part IV, Act 218, SLH 1974 to allow the Department drainage easement rights in the Paukukalo project area.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2718-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2718-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kuroda and Anderson.

SCRep. 543-76 Housing and Hawaiian Homes on 2893-76

The purpose of this bill is to provide for a civil penalty which may be assessed against any developer of a condominium project who violates the provisions of chapter 514, Hawaii Revised Statutes, or the rules of the real estate commission established pursuant thereto.

Under existing law, the real estate commission may bring an action in court to bring a cease or desist order for a violation by a developer while he is in the process of selling units in a condominium project. However, once sales are closed the commission has encountered difficulties in handling violations in that their only available recourse is to file a complaint with the prosecutors office under the existing criminal penalty clause of section 514-46, Hawaii Revised Statutes. Your Committee finds that this bill provides for a faster and more efficient method to remedy violations and thereby deter the same by allowing the real estate commission to collect a civil penalty for violation.

Upon further consideration of the measure your Committee has amended the bill to provide the commission with a similar recourse in dealing with violators of this section other than developers by substituting the word "person" for "developer" on page 1 line 13, and at the suggestion of the real estate commission the bill has been further amended to provide that each violation shall be considered a separate offense.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2893-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2893-76, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Anderson.

SCRep. 544-76 Housing and Hawaiian Homes on H.B. No. 2894-76

The purpose of this bill is to (1) allow condominium apartment owners to transfer parking stalls, (2) authorize condominium associations of apartment owners to collect attorneys fees and other costs in enforcing breaches of covenants of apartment owners and similarly allow apartment owners who are unfairly accused of violating the terms of the declaration, bylaws, etc., the right to recover attorneys fees and other costs resulting from defending themselves from actions of the association of apartment owners, (3) require a one-year warranty by the developer of a condominium project for all common and limited common elements and appliances and other fixtures, and (4) allow allocation of expenses and profits among the apartment owners in mixed use projects containing apartments for both residential and commercial use in a manner other than in proportion to the common interest appurtenant to their respective apartments.

Upon consideration of the measure your Committee has amended the bill by:

a. Deleting section 514-26.5 (2) requiring a one-year warranty covering elements within individual units from the time of initial occupancy of each apartment. In that such a warranty could well run beyond the normal warranty period provided by either the contractor or manufacturer, in which case the cost would be passed on by the developer to the owner, your Committee finds that such a warranty for elements of individual apartments could be better dealt with through negotiations between the developer and prospective owner.

b. Adding Sec. 514- Disclosure requirements. This new section would require each developer of a project to prepare and provide to each prospective initial owner with (1) the name and address of the project, and the name, address, and telephone number of the developer or his agent and of the project manager or his agent, (2) a breakdown of the annual maintenance fees revised and updated at least every twelve months and certified to have been based on generally accepted accounting principles, (3) a description of all warranties being offered by the developer stated separately for the individual apartments and the common elements including the date or dates of initiation and expiration of such warranties, and (4) a description of commercial or other nonresidential development in or near the project and the potential effects of such development on the interests, rights, or obligations of the apartment owners. Your Committee finds that such a disclosure would make for more informed condominium buyers and safeguard the consumer from possible misrepresentations or misunderstandings regarding the nature of the development, maintenance fees, or warranties.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2894-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2894-76, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Kuroda and Anderson.

SCRep. 545-76      Housing and Hawaiian Homes on H.B. No. 2949-76

The purpose of this bill is to make various improvements in the development, administration, and financing of state housing programs operated by the Hawaii Housing Authority under the auspices of chapters 356, 359, and 359G, Hawaii Revised Statutes.

Your Committee has extensively amended this bill, for increased clarity of language and to consider directly related provisions of various bills referred to it.

The bill, as amended by your Committee, now proposes the following significant substantive amendments to state housing programs:

1. Provides for the employment by the Hawaii Housing Authority of an executive secretary, to be retained not subject to civil service laws, gubernatorial appointment, approval of the director of social services, or senatorial confirmation.
2. Raises the permissible ceiling on bonds issued for housing projects constructed under chapters 356 and 359 to eight per cent.
3. Permits the Hawaii Housing Authority to establish rents in state housing projects based on a percentage of tenant income. This amendment meets the purposes of H.B. No. 2947-76, H.D. 1, also referred to your Committee.
4. Amends the definition of "elderly person" to conform to federal guidelines. This amendment meets the purposes of H.B. No. 2233-76, H.D. 1, also referred to your Committee.
5. Raises the maximum rent supplement to elderly persons from \$70 to \$90 a month. This amendment meets the purposes of H.B. No. 2232-76, also referred to your Committee.
6. Establishes a maximum limit of \$150,000,000 in general obligation bonds which can be outstanding under the various activities of chapter 359G, Hawaii Revised Statutes.
7. Permits the director of finance to set interest rates on state loans provided under chapter 359G, with the proviso that they be set at a level at which such bonds shall not be considered "arbitrage bonds" by the United States Internal Revenue Service. In accordance with this amendment, interest limitations on specific types of loans have been deleted from chapter 359G.
8. Allows the Hawaii Housing Authority to retain units in completed dwelling unit projects for community facility purposes.
9. Repeals the existing "buy-back" restriction on sale and transfer of dwelling units constructed under chapter 359G, and establishes a revised, ten-year buy-back restriction. This amendment meets the purposes of H.B. No. 2744-76, H.D. 1, also referred to your Committee. In response to inequities experienced by purchasers at Aiea-Tropicana Village and other projects, your Committee has also provided that earlier buy-back restrictions can be renegotiated by purchasers.
10. Permits payment of principal on housing projects from the General Fund or other sources, by restating disposition of moneys deposited in the dwelling unit revolving fund. This amendment meets the purposes of H.B. No. 3290-76, also referred to your Committee.
11. Restricts interim loans on independently developed projects to a proportionate share of total project costs the same as the proportion of units to be sold to or by the Hawaii Housing Authority. This amendment meets the purposes of H.B. No. 2910-76, also referred to your Committee.
12. Allows the Hawaii Housing Authority to charge loan commitment fees on interim financing of housing projects.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2949-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2949-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kuroda and Anderson.

SCRep. 546-76 Housing and Hawaiian Homes on H.B. No. 2984-76

The purpose of this bill is to provide that blanket mortgages and other blanket liens on apartments shall be paid and satisfied of record at the time of first conveyance by deed or lease, allow minor changes in building plans subject to the approval of the county building permit officer, and establish a cutoff period within which a purchaser must exercise his right of refusal if the final public report is not issued within one year of the preliminary report.

Your Committee finds that the sections of this bill relating to blanket mortgages and building plans basically clarifies what in actual practice is being done at the present time, and that the section establishing a period of ten days subsequent to the receipt of the final report by the purchaser within which time he must exercise his right of refusal adequately protects the rights of both the developer and purchaser.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2984-76, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Kuroda and Anderson.

SCRep. 547-76 Housing and Hawaiian Homes on H.B. No. 3088-76

The purpose of this bill is to amend section 519-2, Hawaii Revised Statutes, to make clear that the lease renegotiation provisions of that section apply only to residential lots occupied or permitted to be occupied by a single-family residence. Other minor language changes are made to the section in the interests of greater clarity.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 3088-76, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Kuroda and Anderson.

SCRep. 548-76 Housing and Hawaiian Homes on H.B. No. 3108-76

The purpose of this bill is to clearly spell out the real estate commission's authority to establish rules and regulations to implement chapter 514, Hawaii Revised Statutes, and to insure that supplemental rules and regulations adopted by the county councils shall not conflict with chapter 514, Hawaii Revised Statutes, or any rules and regulations established by the real estate commission.

Your Committee finds that although the commission has, pursuant to other sections of this chapter, adopted the rules and regulations now in effect, it is necessary that the commission be specifically designated to adopt such rules and regulations.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 3108-76, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Kuroda and Anderson.

SCRep. 549-76 Housing and Hawaiian Homes on H.B. No. 3208-76

The purpose of this bill is to require that occupants of lands taken under the power of eminent domain be offered a permit to remain on the land until the land is actually needed for the public purpose for which it was condemned.

Your Committee has reviewed this bill thoroughly, and has made a number of minor amendments for clarity. In addition, one substantive change has been made.

The bill as amended would provide that monthly rent under the permit would be not more than seven per cent of the amount deposited in court, or the then current rent being paid by the land occupant, whichever is less. The phrase "whichever is less" has been added to avoid possible misinterpretation.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 3208-76, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3208-76, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.



Signed by all members of the Committee except Senator Anderson.

SCRep. 550-76 Housing and Hawaiian Homes on H.B. No. 3230-76

The purpose of this bill is to substantially amend Part III, Chapter 359, Hawaii Revised Statutes, to expand and reiterate the responsibilities of the Hawaii Housing Authority in providing housing for elderly persons.

Your Committee agrees that fifteen per cent of the elderly population in Hawaii are in need of better, less expensive housing. For these thousands of elderly, access to suitable housing arrangements remains a critical problem.

Your Committee agrees that one factor contributing to the shortage of elderly housing is that presently, the Authority maintains no special allocation for any particular segment of individuals within the group designated as low income. Consequently, there is no amount of funding within the programs set aside especially for the elderly, despite the fact that taken in the aggregate, the elderly demonstrate that they have different needs and preferences than that of the client group served by the Authority as a whole.

This bill would alleviate the above-mentioned conditions by authorizing the Authority to do any and all things necessary and desirable to acquire, construct, reconstruct, operate, and maintain housing projects for the elderly. The primary thrust of this bill is to provide funds through a newly created elderly housing fund as well as other available funds of the Authority, and through the financial assistance from the federal government. Further, this bill will provide an incentive for the counties and nonprofit organizations to assume a far more active role in elderly housing development than they have up to now.

The Bill authorizes \$1,000,000 in general obligation bonds to be used as seed money for the elderly housing fund.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 3230-76, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kuroda and Anderson.

SCRep. 551-76 Transportation on H.B. No. 2068-76

The purpose of this Act is to amend certain sections and subsections of Chapter 286, Hawaii Revised Statutes, relating to the point system established for the evaluation of the operating records of all persons operating motor vehicles and for the determination of the continuing qualifications of such persons to operate motor vehicles.

In order to reflect the severity of the act of driving while under the influence of intoxicating liquor, your Committee recommends that the minimum and maximum points assigned to this category be increased from a range of four (4) to eight (8) points and from a range of eight (8) to ten (10) points.

Your Committee also recommends the retention of the present upper limits of points in the point system which may lead to license suspensions and also recommend the retention of the system of crediting favorable points to a driver's account if no violation has been charged during a two year period.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2068-76, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator George.

SCRep. 552-76 Economic Development on H.B. No. 2147-76

The purpose of this bill is to bring about greater participation by private lenders in extending credit to farmers. The bill proposes to allow the Department of Agriculture to establish maximum interest rates chargeable by private lenders for loans insured by the Department consistent with the lenders' going rate for similar loans.

The existing Farm Loan Act restricts the interest rate chargeable by private lenders to two per cent above the prime rate. Private lenders are often unwilling to participate when the maximum chargeable interest does not provide a reasonable yield. This lack of participation becomes more pronounced during times of "tight money". Presently,

due to the restrictive interest ceiling placed on private lenders, activity under the insured loan program is practically nonexistent.

Your Committee feels that this bill will induce private lenders to extend credit to farmers more readily, and thus, ease the stress currently placed upon the Farm Loan Program of the Department of Agriculture.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2147-76 and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 553-76 Economic Development on H.B. No. 3133-76

The purpose of this bill is to enable the director of planning and economic development to hire scientific personnel on a permanent and temporary basis for research and development industry promotion purposes without regard to Chapters 76 and 77 of the Hawaii Revised Statutes relating to civil service.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 3133-76, H.D. 1, and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 554-76 Economic Development on H.B. No. 3255-76

The purpose of this bill is to direct the director of planning and economic development, in consultation with other state agencies, to designate an appropriate site on Oahu as the permanent site of the state farm fair.

Your Committee finds that, inasmuch as agriculture is a major facet of the State's economy, effective market development and promotional programs such as the state farm fair are important.

Your Committee further notes that the use of such a site should not be limited solely to the purposes of a state farm fair, but should be available for other similar affairs in the community.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 3255-76, H.D. 2, and recommends that it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 555-76 Judiciary on H.B. No. 513

The purpose of this bill is to require the Legislative Reference Bureau to maintain a compilation of all rules of State and county agencies and to determine if the rules or amendments of the State agencies violate the substantive law under which they were adopted and to report to the legislature thereon.

One of the many purposes of the Bureau is to provide comprehensive research and reference services on legislative problems for the legislature and to aid in the preparation of legislation. A review of the rules adopted under the Administrative Procedure Act would be within their functional capacity. Because of their expertise in this area, your Committee finds that the Bureau would be more adept at such a review than any other body.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 513, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators O'Connor, Chong, Kawasaki and George.

SCRep. 556-76 Judiciary on H.B. No. 2698-76

The purpose of this bill is to amend certain sections of Chapter 291C, Hawaii Revised Statutes, relating to the Statewide Traffic Code, to provide that violations of parking

restrictions established by any ordinance shall constitute violations under the Penal Code and that such violations would be subject to fines enforced and collected by the district courts to be deposited in the State general fund. This bill also prohibits the counties from imposing any other penalty or charge, criminal or civil, for such violations.

Your Committee recommends that this bill be amended by deleting the words "and to be deposited for state use in the state general fund" in lines 15 and 1 on pages 1 and 2 respectively. At present the counties enforce their respective parking ordinances through their police departments and prosecuting attorney's or county attorney's offices. Your Committee feels that a portion of the amounts collected as parking fines should be turned over to the respective counties to help defray the costs of enforcing the parking ordinances. Accordingly, your Committee recommends that the bill be amended to provide that one-half of the total amount of fines collected in each county should be remitted by the State director of finance to the respective counties within 90 days after the end of each fiscal year. Your Committee also recommends that the bill be amended to incorporate changes of style which do not otherwise affect the substance of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2698-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2698-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 557-76 Economic Development on H.B. No. 3299-76

The purpose of this bill is to amend Chapter 209, Hawaii Revised Statutes, essentially to provide for:

1. Personal loans up to a maximum of \$5,000 to be made to disaster victims; and
2. Increasing the interest rate for loans from 4 per cent to 5 per cent a year.

Your Committee has amended the bill to establish a State Disaster Revolving Loan Fund in support of Chapter 209, Hawaii Revised Statutes, and to appropriate \$500,000 for such a fund. Your Committee has further amended the bill to require that the annual report be filed by the rehabilitation coordinator at least twenty days before the convening of each regular session of the legislature. Your Committee has also amended Section 209-25(5) and (6) to insure that these paragraphs apply only to commercial loans. Certain technical amendments have also been made. Your Committee has further amended the bill to increase the interest rate for commercial and personal loans from five to six per cent.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 3299-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3299-76, H.D. 1, S.D. 1, and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 558-76 Economic Development on H.B. No. 3333-76

The purpose of this bill is to establish a coordinating committee of task forces in the governor's office. The governor's administrative director will serve as chairman of the committee, and its members shall include the director of the Department of Planning and Economic Development and the chairmen of the Boards of Land and Natural Resources and Agriculture. Annual reports to the Legislature will be required. The bill further provides that the governor's office will be the expending agency for the various task forces.

This bill is to assure effective coordination in responding to threatened communities by placing within the office of the governor the responsibility and authority to evaluate and approve requests for funding of programs designed to assist such economically depressed communities within the State and to monitor the programs so funded.

Previous appropriations applicable to existing task forces are not affected by this bill.

There is appropriated in the bill, the amount of \$1,200,000 which may be expended for any currently existing task force and/or any newly authorized task force.

Your Committee has amended this bill by adding provisions which provide for:

a. Unused funds to lapse on June 30, 1977, thereby providing the Legislature an opportunity to completely evaluate the effectiveness of this program during the next Legislative session.

b. Certain quantitative and qualitative restrictions with respect to the use of the appropriated funds, i.e. 1) viability must be determined in accordance with prudent lending practices, 2) no more than \$650,000 can be used for any one project, 3) no funds may be used in the case of any project in a receivership status and borrower must be 60 days current of accounts payable for sums greater than \$5,000.00. It is the intent of this Committee that once a project which may be in receivership status on the effective date of this bill, is taken out of receivership status, that funds appropriated by this bill may be expended for such project.

Your Committee feels that establishment of the coordinating committee and the restrictions provided by the bill will act to reduce the number of problems encountered during the initial phases of the task force efforts.

Additionally, the bill has been further modified to clarify a previous appropriation authorizing the purchase of certain lands for agricultural park purposes. The rationale outlined in Standing Committee Report 340-76 pertains.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 3333-76, H.D. 2, as amended herein, and recommends that it pass Second Reading and be referred to your Committee on Ways and Means in the form attached hereto as H.B. No. 3333-76, H.D. 2, S.D. 1.

Signed by all members of the Committee.

SCRep. 559-76      Judiciary on H.B. No. 2070-76

The purpose of this bill is to ensure expeditious examination and treatment of alleged rape victims at emergency facilities, and to assist in the payment of costs of examination and treatment in cases where complaints of rape crimes are made by or in the case of minors on behalf of, rape victims.

The bill provides that alleged rape victims shall be treated by hospitals and emergency facilities as emergency patients.

The bill further provides for the Department of Health to assume payment for medical services to alleged victims to cover the initial cost of examination, treatment, and evaluation. If a person carries health insurance and is eligible to receive reimbursement for services, this bill provides that the Department of Health would be responsible for that portion of the cost of services which is not covered by medical insurance. The Department of Health estimates that the cost for such services will be \$20,000.

Your Committee amended the bill as follows:

- (1) Deleted section 1 of the bill.
- (2) Deleted sec. - (a) of section 2 of the bill.

Although your Committee deleted the above sections, it is concerned about the treatment victims of rape receive at hospitals and other emergency facilities. Victims of rape are vulnerable to extreme emotional stress which can be aggravated by poor examination and report procedures. Testimony received by your Committee indicated that rape victims at some hospitals and emergency facilities are required to wait an inordinate length of time before examination and treatment, and on occasion they have been required to wait up to six (6) hours. Your Committee realizes that hospitals and other emergency facilities have an obligation to immediately treat those patients gravely injured or ill, but it cannot and will not condone poor and shoddy treatment of rape victims by hospitals and other emergency facilities. Accordingly, your Committee will continue to investigate the type of treatment rape victims receive at hospitals and other emergency facilities, and if reports are received that hospitals and other emergency facilities are not reasonably meeting the needs of rape victims for expeditious examination and treatment, your Committee shall consider appropriate action. To this end your Committee invites reports from organizations such as The Hawaii Federation of Business and Professional Women's Clubs and agencies such as The State Commission on the Status of Women and the Sex Abuse Center.

- (3) Renumbered the sections of the bill.

(4) Inserted the words, "as an outpatient" where appropriate to clarify the fact that the maximum reimbursement to the victim will be limited to the cost of services usually

incurred in the initial examination and treatment.

(5) Deleted sec. - (c) of section 2 of the bill.

(6) Making minor technical changes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2070-76, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2070-76, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 560-76 Human Resources on H.B. No. 2300-76

The purpose of this bill is to amend Chapter 346, Hawaii Revised Statutes, by adding a new section which directs the Department of Social Services and Housing to adopt rules permitting payment to providers of group psychotherapy for services to Medicaid recipients.

Your Committee finds that group therapy has been found to have significant therapeutic value in helping some persons adjust to living conditions and situations. The group provides the individual member with support and attention as well as self-appraisal and constructive criticism which creates an environment favorable to modifying old behaviors and learning new patterns of behavior.

Your Committee further finds that the Department of Social Services and Housing has expressed concern about additional program costs related to the mechanics of providing group therapy services. However, under the rules and regulations it can adopt, the Department can control the cost of providing group services.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2300-76, H.D. 2 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 561-76 Human Resources on H.B. No. 2302-76

The purpose of this bill is to amend Section 346-15, Burial of an Indigent, Hawaii Revised Statutes by specifying that the Department of Social Services and Housing may pay up to \$400 each, for two forms of service: mortuary and crematory, and cemetery. The services will be furnished by a provider under contract by the Department.

Your Committee finds that in permitting relatives to freely choose a provider of burial services would be detrimental cost wise. Often times, these surviving relatives choose a provider who requires more than the allotted \$400, and is thus contrary to the intent of providing a dignified service. Moreover, the Department would not be able to provide full service for persons with no known survivors. These persons constituted approximately one-half of the 418 cases in calendar year 1975.

Furthermore, your Committee finds that the statutory limit does not realistically reflect present day funeral costs. Current market costs average around \$1,100 to \$1,200 which includes \$400 for a plot, \$260 for opening and closing the grave, and \$500 for a casket and mortuary service. Hence, an additional \$198,000 would be required to adequately fund this program in fiscal year, 1976-77. This figure reflects an additional \$400 for each funeral service granted by the Department.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2302-76, H.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 562-76 Human Resources on H.B. No. 2598-76

The purpose of this Act is to grant to persons 60 years of age and over an excise tax exemption on retail purchase of prescription drugs.

Your Committee recognizes the need to relieve senior citizens of the burden of paying taxes on drugs. The elderly are generally in the low income bracket and as a group

they are greater consumers of drugs than the general population. Medical expenses increase in order to maintain the physical health of the aged.

Your Committee finds that this bill requires persons 60 years of age and over to identify themselves by presenting their prescription to the retailer together with one of the following sources of identification: a) an automobile driver's license duly issued by any state or territory of the U.S.; b) birth certificate; c) medicare card; d) state or county identification card; or e) any other means of identification approved by the Attorney General of the State of Hawaii. This method enables the retailer to verify both the age of the purchaser and the fact that the prescription has been made for the person making the purchase.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2598-76, H.D. 3, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 563-76 Human Resources on H.B. No. 2713-76

The purpose of the bill is to enable the chief executives of the State and counties the authority to set compensation, hours, terms and conditions of employment for excluded employees. However, any adjustments requiring an appropriation will be subject to approval of the appropriate legislative body.

Your Committee finds that the current practice of making adjustments for excluded employees through individual legislative measures have proven to be uncertain and as a consequence, detrimental to the morale of excluded employees. These managerial and confidential employees are the representatives of management and are excluded from bargaining units, not by choice, but by law.

Your Committee believes that this bill will enable the chief executives to make timely and equitable adjustments appropriate to excluded employees.

Your Committee has amended the bill by adding a new section. The purpose of the amendment is to state clearly that those employees presently excluded from the collective bargaining process, has the right to self-association and to receive all rights and benefits negotiated through a collective bargaining agreement in a collective bargaining unit he would have belonged to had he not been excluded.

Your Committee has further amended the bill to clarify language and to specify that the directors of personnel services of the State and counties, the superintendent of education, and the president of the university of Hawaii shall recommend adjustments to the chief executives of the State or counties or to the board of education or the board of regents, which will be uniform and become effective at the same time as that of the included employees.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2713-76, H.D. 2 as amended herein and recommends that it pass Second Reading in the form attached hereto as H.B. 2713-76, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 564-76 Human Resources on H.B. No. 3162-76

The purpose of this bill is to abolish the youth affairs component in the Office of Information and Youth Affairs in the Office of the Governor, and to transfer its functions to the Commission on Children and Youth, or, if established, the Office of Children and Youth.

Your Committee finds that the responsibility of the information component and those of the youth affairs branch are not sufficiently related to warrant their continuing co-existence within the same body. Also, testimony presented by the Office of Information and Youth Affairs agreed that a separate agency to deal with the functions of the youth affairs branch of the Office would best serve the needs of the community.

Your Committee recommends that a total of \$8,200 be transferred to the Commission on Children and Youth, or, if established, the Office of Children and Youth. This figure was provided by the Office of Information and Youth Affairs and represents that

fraction of the Office of Information and Youth Affairs' total budget that had been allocated to the Youth Affairs component.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 3162-76, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 565-76 Human Resources on H.B. No. 3171-76

The purpose of this bill is to provide that where a retirement system member dies of a terminal illness within thirty days after the date of a filing for retirement, the designated beneficiary shall receive that amount which would be payable had the member retired before death provided the member did not know of the terminal nature of the illness more than thirty days prior to death, and his physician did know but elected not to advise the member of such because of the mental or physical well-being of the member.

Your Committee has amended the bill to include that benefits may be paid to all persons who have filed an application to retire. This action will then include members who may die from a heart attack or an accident and not due to a terminal illness. To withhold benefits from families of such members is not in the best interest of the deceased families.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 3171-76, H.D. 2 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3171-76, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 566-76 Human Resources on H.B. No. 2194-76

The purpose of this bill is to provide full prepaid health benefits to employees who suffer illness resulting from substance abuse, particularly alcohol and drugs.

Your Committee finds that presently, alcoholism and drug addiction are not included as medical problems that are eligible for prepaid health care coverage. Your Committee finds that alcoholism and drug problems are the medical problems that are most disruptive of family life and employment. Alcoholism and drug addiction are illnesses, and like other illnesses, their treatment should be uniformly covered by prepaid health care plans. Hawaii Medical Service Association (HMSA) considers alcoholism and drug addiction to be illnesses and provides the same benefits as those available for illnesses in general on both inpatient-outpatient basis. Kaiser Hospital is willing to provide the same benefits.

Your Committee believes that the inclusion of alcoholism and drug addiction in prepaid health care plans will provide visibility to alcoholism and drug addiction benefits and as a result, any encourage more accurate diagnosis of health problems related to alcoholism and drug addiction. Your Committee further believes that this bill will ensure adequate treatment for alcoholism and drug addiction by requiring its inclusion in prepaid health care plans.

Your Committee has amended the bill by correcting a typographical error on the renewal date in section 4.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2194-76, H.D. 1 as amended in the form attached hereto as H.B. No. 2194-76, H.D. 1, S.D. 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator R. Wong.

SCRep. 567-76 Human Resources on H.B. No. 2632-76

The purpose of this bill is to exclude the staff of the Legislative Branch of the City and County of Honolulu and the counties of Hawaii, Maui, and Kauai except the staff of the Clerks Office of the City and County of Honolulu and to counties of Hawaii, Maui, and Kauai from any collective bargaining unit.

Your Committee finds that under the present law, the staff of the Legislative Branch of the City and County of Honolulu and counties of Hawaii, Maui, and Kauai are excluded from being members of an appropriate collective bargaining unit.

Your Committee also finds that the staff of the Clerks Office of the City and County of Honolulu and the counties of Hawaii, Maui, and Kauai are considered of the Legislative Branch of the City and County of Honolulu and said counties, under the present statutes. However, the responsibility of the Clerks Office is to handle elections and has no direct relationship to the Legislative function.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2632-76, H.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. 568-76 Economic Development on H.B. No. 2809-76

The purpose of this bill is to encourage the formation and successful operation within the State of Hawaii of Small Business Investment Companies as defined by the federal Small Business Investment Act of 1958, as amended.

In a public hearing, your Committee has ascertained that the Small Business Investment Companies (SBICs) are government-backed, flexible financing devices for furnishing equity capital and long-term loan funds to small businesses to operate, grow, and modernize. These companies are formed to operate under the regulations of the federal Small Business Investment Act once they have obtained an SBIC license. Since that time, they have proved to be adaptable to inner city as well as rural economic development by funneling much-needed investment capital into economically depressed communities, and to socially or economically disadvantaged small business entrepreneurs.

Your Committee further finds that despite the success of the SBIC industry, Hawaii has been slow to benefit. By the end of 1975, only two SBICs had been licensed to operate in Hawaii, and one of these was licensed in 1975. To this end, the SBA has developed an index to measure the amount of SBIC financing within each state relative to employment and financial factors in that area. Using 100 to indicate a proportionate level of SBIC financing, the SBA rates Hawaii at 16.48 --- in other words, Hawaii small businesses received only one-sixth of their proportionate share of SBIC financing during 1975. Only six other states had a lower rating.

Moreover, your Committee is cognizant of the impact of SBICs on the country's economy as can be seen from the results of a recent SBA survey. Approximately 7,500 new jobs were made available because of SBIC financing during 1975, and an additional 18,600 jobs are expected to be generated from this same financing during the next several years. H.B. No. 2809-76, H.D. 1, can make it possible for our state economy to participate in these SBIC benefits. It is the intent of this Committee that this bill will benefit the economy of the State by furthering the growth of small businesses and thereby providing increased employment opportunities for all the people of the State.

Your Committee has amended the bill to exempt local development companies from taxation under the bill and to add a new subsection (17) to provide the exemption for small business investment companies taxable under chapter 241.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2809-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2809-76, H.D. 1, S.D. 1, and be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 569-76 Economic Development on H.B. No. 3261-76

The purpose of this bill is to provide the much needed support and impetus for the development of the papaya, anthurium, and ornamental foliage industries by appropriating \$849,000 in allocated amounts.

Your Committee finds that the papaya, anthurium, and ornamental industries contribute significantly to Hawaii's economic stability and hold great potential for further development as elements of diversified agriculture. For example, the papaya industry promises the greatest growth potential in utilizing land, creating jobs, and improving the State export-import balance, with projected sales of \$15.6 million by 1980. Moreover, the anthurium industry has displayed a steady growth potential with 80% of the anthuriums marked for export to the mainland and foreign countries. The ornamental industry also displays an economic potential for expansion in Hawaii for export market. Therefore, your Committee feels that continued support of programs designed to enhance the growth



and development of diversified agriculture constitutes a priority item in State spending.

After careful consideration, your Committee has amended the bill in the following manner:

(1) the Department of Planning and Economic Development alone shall determine how the sum of \$220,000 for promotional and advertising efforts is expended;

(2) the sum of \$12,000 for contractual services to obtain current market distribution information has been deleted; and

(3) the amount appropriated for the research and development of the ornamental plant industry has been reduced to \$20,000.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 3261-76, H.D. 2, as amended herein, and recommends that it pass Second Reading and be referred to your Committee on Ways and Means in the form attached hereto as H.B. No. 3261-76, H.D. 2, S.D. 1.

Signed by all members of the Committee.

SCRep. 570-76 Economic Development on H.B. No. 2216-76

The purpose of this bill is to require that the sale of remnants of public lands does not create lots or uses unacceptable to the counties in which such remnants lie.

Your Committee finds that to a remnant of public land there are often several abutting owners who fulfill the statutory definition as outlined by the Office of the Attorney General. Under the present law, all such abutting owners are provided the opportunity to purchase the remnant by submitting a sealed bid. The highest offer above the appraised value is accepted. There have been circumstances where one of the abutting owners, with only a single point or slight abutment, has been the highest bidder. Such sales have created lots of a conformity which would not have been permitted in a subdivision subject to county standards and approval.

The proposed amendment to Section 171-52 contained in this bill would assure the counties that State remnants will not be sold in such a manner as to create undesirable parcels when consolidated or combined with the abutting parcels.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2216-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 571-76 Intergovernmental Relations on H.B. No. 1159

The purpose of this bill is to amend the law to authorize the Director of Finance of a county to issue permits which will allow motor vehicles which do not have current certificates of inspection, to be moved on the public streets for the purpose of repair required to obtain a certificate.

Your Committee upon consideration of testimony, finds that it is presently unlawful to operate motor vehicles on the public streets without a current safety check. Persons who wish to safety check a vehicle which does not have a current safety check, must have the vehicle towed to a safety check station and/or to a repair shop.

This bill provides that the Director of Finance of a county, or his designated representative, may issue a permit for a vehicle which does not carry a current certificate of inspection, to be moved on the public streets and highway, for the purpose of being required to obtain the required certificate of inspection.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of H.B. 1159, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Yee.

SCRep. 572-76 Health on H.B. No. 2999-76

The purpose of this bill is to establish an additional deputy director in the Department

of Health in charge of administration or other functions as may be assigned by the Director of Health with the approval of the Governor.

Your Committee finds that this new position is needed to strengthen the top level management team of the department, which is the third largest state agency next to the Department of Education and the University of Hawaii.

Your Committee finds that the deputy director for administration would assist the department in the areas of administrative and management leadership, departmental planning, and guidance and assistance to all health department programs.

According to testimony by the Department of Health, the new deputy's responsibilities would include planning and evaluation, quality control, organization management, personnel services, financial management, grants and contracts management, and a health information system.

Your Committee also finds that funding is not being requested because the salary costs of this position can be absorbed within existing appropriations.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2999-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Ching and Nishimura.

SCRep. 573-76 Health on H.B. No. 3090-76

The purpose of this bill is to require that bathhouses and bathhouse operators be regulated by the Board of Massage in order to insure the public of safe and sanitary conditions at such establishments.

Your Committee finds that at the present time the only regulation over such businesses is an inspection of the premises by the Department of Health. Your Committee agrees that in order to insure healthy conditions that sauna bathhouses and other bath establishments should be regulated in the same manner as massage parlors and salons.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 3090-76, H.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Ching and Nishimura.

SCRep. 574-76 Health on H.B. No. 3247-76

The purpose of this bill is to amend the Hawaii Food, Drugs and Cosmetics Act, by adding a new subsection to Section 328-6, which would prohibit the willful and false representation of any device, substance, method or treatment as effective in the diagnosis, cure, mitigation, treatment or alleviation of cancer.

Your Committee on Health is concerned with the problem of quackery in health problems and feels that persons suffering from cancer are particularly vulnerable to such methods. Your Committee finds that delays in seeking and using sound medical treatment procedures adversely affect the person's ability to benefit from treatment and therefore decrease the person's chances for recovery and remission.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 3247-76, 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 Senators Ching and Nishimura.

SCRep. 575-76 Higher Education on H.B. No. 2246-76

The purpose of this bill is to add the Campus Center to the list of activities which are exempted from central services expenses.

According to the Dean of Students at the University of Hawaii, the Campus Center is the same sort of special fund operation as student housing, summer session, continuing education and all campus bookstores and cafeterias. All these programs are now exempt from Act 34 charges. As such, to be consistent with current statutes, the Campus Center should be included in the exemption.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 2246-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 576-76 Higher Education on H.B. No. 2248-76

The purpose of this bill is to create a revolving fund for the centralized operation of duplicating and other reproduction services on the Manoa Campus on a self-supporting basis.

The high costs of duplicating and photocopying services at the University indicates a need for a centralized control, review and accounting system. The Central Duplicating Service is proposed to develop and apply the appropriate controls which would permit periodic review of utilization and costs and thus result in improved efficiency and economy.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 2248-76, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 577-76 Higher Education on H.B. No. 2407-76

The purpose of this bill is to amend the Hawaii Revised Statutes to allow the University of Hawaii to concurrently register a State Scholarship holder at two or more campuses without having to make use of two scholarship units.

Your Committee is cognizant that there are certain academic programs offered at University of Hawaii campuses which require that a student register at more than one campus during the same semester in order to gain training in certain skills unavailable at the campus at which the student is seeking a degree. For example, an individual who is training to become a Vocational Education teacher takes his professional education courses at the Manoa Campus and his technical skill courses at Honolulu Community College.

Your Committee is also aware that the existing statutes recognize the dichotomy between the baccalaureate system and the community college system and require that financial aid units for each system be adjusted annually. The adjustments are based upon the ratio of full-time undergraduates in the baccalaureate system to full-time undergraduates in the community college system. When a student is enrolled at both a community college and a baccalaureate college and is receiving financial aid, two financial aid units must be charged; one to the community college and one to the baccalaureate college. The result is that one less financial aid unit is available to the second campus at which the student is enrolled.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 2407-76, H.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 578-76 Higher Education on H.B. No. 2691-76

The purpose of this bill is to enable the University of Hawaii to provide for the specialized education and training of workers and leaders of the trade unions to improve their professional competence.

The Center for Labor-Management Education at the University of Hawaii is re-designated as the Center for Labor Education and Research. The Center shall (1) provide labor education instruction, labor-related research, and educational services for workers and their organizations; (2) provide labor-related education to the public; (3) advise and assist in the development and implementation of labor-related instructional programs, courses and activities for use within the Department of Education; including teacher preparation therefor; (4) advise and assist in the development and implementation of labor studies degree programs in the University of Hawaii system; and (5) be the clearinghouse for labor education matters in the State.

Testimony submitted by Mr. A. Van Horn Diamond, Executive Secretary-Treasurer, Hawaii Federation of Labor, AFL-CIO, endorsed and supported by Mr. David Thompson of the ILWU Local 142, states that the current center for Labor Management Education,

created by administrative action of the University, has been ineffective and inefficient due to a lack of administrative interest and support. The statutory creation of the Center of Labor Education and Research (CLEAR) is essential to insuring future viability in labor education.

Your Committee on Higher Education has made technical amendments to the bill for purposes of clarity and style.

Your Committee is in accord with the intent and purpose of H.B. No. 2691-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 2691-76 H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 579-76 Housing and Hawaiian Homes on H.B. No. 2894-76

The purpose of this bill is to (1) allow condominium apartment owners to transfer parking stalls, (2) authorize condominium associations of apartment owners to collect attorneys fees and other costs in enforcing breaches of covenants of apartment owners and similarly allow apartment owners who are unfairly accused of violating the terms of the declaration, bylaws, etc., the right to recover attorneys fees and other costs resulting from defending themselves from actions of the association of apartment owners, (3) require a one-year warranty by the developer of a condominium project for all common and limited common elements and appliances and other fixtures, and (4) allow allocation of expenses and profits among the apartment owners in mixed use projects containing apartments for both residential and commercial use in a manner other than in proportion to the common interest appurtenant to their respective apartments.

Upon consideration of the measure your Committee has amended the bill by:

a. Deleting section 514-26.5 (2) requiring a one-year warranty covering elements within individual units from the time of initial occupancy of each apartment. In that such a warranty could well run beyond the normal warranty period provided by either the contractor or manufacturer, in which case the cost would be passed on by the developer to the owner, your Committee finds that such a warranty for elements of individual apartments could be better dealt with through negotiations between the developer and prospective owner.

b. Adding Sec. 514- Disclosure requirements. This new section would require each developer of a project to prepare and provide each prospective initial owner with (1) the name and address of the project, and the name, address, and telephone number of the developer or his agent and of the project manager or his agent, (2) a general narrative description stating the total number of apartments, the types and intended use of the apartments, the total number of apartments that may be included by reason of future expansion of the project, and a precise statement of the nature of the interest which is being offered, (3) a breakdown of the annual maintenance fees revised and updated at least every twelve months and certified to have been based on generally accepted accounting principles, (4) a description of all warranties being offered by the developer stated separately for the individual apartments and the common elements including the date or dates of initiation and expiration of such warranties, and (5) a description of commercial or other nonresidential development in or near the project and the potential effects of such development on the interests, rights, or obligations of the apartment owners. Your Committee finds that such a disclosure would make for more informed condominium buyers and safeguard the consumer from possible misrepresentations or misunderstandings regarding the nature of the development, maintenance fees, or warranties.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2894-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2894-76, H.D. 1, S.D. 2, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Nishimura and F. Wong.

SCRep. 580-76 Legislative Management

Informing the Senate that Gov. Msg. Nos. 210 to 253, S.C.R. No. 85, S.R. Nos. 350 to 353 and Stand. Com. Rep. Nos. 557-76 to 579-76 and 581-76 to 584-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 581-76 Public Utilities on S.C.R. No. 31

The purpose of this Concurrent Resolution is to request the Attorney General to take appropriate procedures to strengthen the capabilities of the Department of the Attorney General to provide effective legal representation in the field of public utilities regulation.

A recent management audit of the public utilities program by the Office of the Legislative Auditor revealed that participation by the Department of the Attorney General in the process of regulating public utilities has been less than fully adequate and effective, and since the regulation of public utilities is vitally important to the public welfare, your Committee believes that immediate and prompt action be initiated to bring about more effective legal representation of the public interest and of consumers before the public utilities commission.

Your Committee also believes it important that the Attorney General submit a report on the steps taken to strengthen the capabilities of the Department of the Attorney General to provide legal representation in the public utilities field to the 1977 legislature no later than 20 days before it convenes.

Your Committee on Public Utilities concurs with the intent and purpose of S.C.R. No. 31 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 582-76 Health on S.R. No. 53

The purpose of this resolution is to request the director of the department of health to examine methods of controlling and alleviating noise to acceptable levels and to report recommendations to the Senate.

Your Committee finds that existing regulations may not protect from excessive noise persons who are inside structures located on public property. For example, noise from construction taking place at the University of Hawaii Manoa campus jeopardizes classroom studies.

Your Committee finds that present regulations controlling noise are property line oriented to allow objective measurements of noise emanating from an existing property and to protect persons outside that property.

The intent of this resolution is to examine the possibility of applying the department of health's noise control regulations to protect persons inside structures on public property and to examine the possibility of establishing a maximum noise background level for classrooms.

Your Committee on Health concurs with the intent and purpose of S.R. No. 53 and recommends its adoption.

Signed by all members of the Committee except Senator Takitani.

SCRep. 583-76 Health on S.R. No. 127

The purpose of this resolution is to allow the University of Hawaii School of Public Health to continue, in collaboration with certain other groups, to explore and experiment ways to deal with necessary data for health and social planning in the State; to design an encoding procedure for this data; to develop a procedure under which State agencies and departments might release certain data in the interest of health; and to report its progress to the Legislature.

Your Committee on Health concurs with the intent and purpose of S.R. No. 127 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 584-76 Health on S.R. No. 257

The purpose of this resolution is to direct the Department of Health to evaluate the need to create full-time nutritionist positions in each of the district health offices of Hawaii, Maui, and Kauai; and for the Department of Health to submit its recommendations to the Legislature.

Your Committee finds that the Counties of Hawaii, Maui, and Kauai do not have any full-time nutritionists to provide services at this time.

Your Committee on Health concurs with the intent and purpose of S.R. 256 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 585-76      Legislative Management

Informing the Senate that S.C.R. No. 86 and S.R. Nos. 354 to 358 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 586-76      Legislative Management

Informing the Senate that S.C.R. Nos. 87 to 92, S.R. Nos. 359 to 368 and Stand. Com. Rep. Nos. 587-76 to 595-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 587-76      Human Resources on S.R. No. 250

The purpose of this Resolution is to request the Governor to study the feasibility of continuing participation of State retirement system members in the social security system.

Your Committee finds that the Social Security System was originally purported to provide a small measure of security for individuals in their retirement. However, over the years it has become an enormous income transfer program that extracts income of the productive segment of society and passes it on to the non-productive. Your Committee also finds that after 41 years of existence, social security has created a hardship on the labor force because of the rapid changes in the tax rate and taxable income under the Social Security Act. Over the years, the tax rate has been increased eleven times from one percent at its inception, to the current 5.85 percent paid by the employee and matched by the employer for a combined total of 11.7 percent. The taxable wage base has been increased ten times.

Your Committee further finds that the employee who chooses to drop out of the system does not lose what he has already put into the Social Security System. Studies have shown that the employee who withdraws will retain paid-up benefits and be assured that upon his retirement, he will reap dividends. On the other hand, Social Security is a "risk" insurance because of a lack of guarantee that money will be available upon retirement at the present mode of operation of the system.

Your Committee feels that more of a return could be gained if the annual contribution was put in a plan or fund separate from which our Social Security contributions could derive dividends, thus assuring each employee a full return of his contributions.

Your Committee on Human Resources is in accord with the intent and purpose of S.R. No. 250 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 588-76      Human Resources on S.R. No. 303

The purpose of this resolution is to request the Department of Personnel Services, with the cooperation of the personnel departments of the several counties, to review and study the merits of compulsory binding arbitration of impasse disputes for firemen and policemen, and the various types of arbitration available, and to report its findings and recommendations to the Legislature twenty days before the convening of the Regular Session of 1977.

Your Committee believes that the Industrial Relations Center, University of Hawaii, is in a better position to conduct the study than the Department of Personnel Services, as it has at its disposal professionals with expertise in the subject area, research materials and facilities, and avenues of communication specifically designed to supply information and conduct research studies on basic industrial relations problems. Your Committee further believes that the study should receive input from a wider variety of sources, including other state agencies, management, and labor. These changes are reflected in the attached amended Resolution.

Your Committee has also amended the Resolution by requesting the Industrial Relations Center to report its findings and recommendations to the Legislature by December 1, 1976,

and requesting your Committee on Human Resources to review and study the report prior to the convening of the Regular Session of 1977.

Your Committee on Human Resources concurs with the intent and purpose of S.R. No. 303, as amended herein, and recommends that it be adopted in the form attached hereto as S.R. No. 303, S.D. 1.

Signed by all members of the Committee.

SCRep. 589-76 Human Resources on H.B. No. 2533-76

The purpose of this bill is to amend Section 346-19, Hawaii Revised Statutes, by clarifying the definition of family home care to be consistent with the definition of group care.

Your Committee finds that the statute presently specifies that the term "day care center" includes any place where group care is provided for six or more children, and any family home providing care for two to six children. The present wording implies that day care for a group of six children may be classified as either family care or group care. This bill would substitute "five" for "six" in the definition of family care and therefore clarify the distinction between family care and group care.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2533-76 and recommends that it pass Second Reading and be placed on the the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 590-76 Human Resources on H.B. No. 3013-76

The purpose of this Act is to ensure that elderly individuals will not be placed in unlicensed boarding and care homes except in emergencies when no licensed facility is available.

Your Committee finds that there exists several hundred facilities know either as adult family boarding homes or care homes which provide care for the elderly and handicapped. Presently, there is no means of ensuring that such homes provide proper care to their elderly inhabitants.

Your Committee recognizes the need to discontinue the Department of Social Services and Housing's and the Department of Health's practice of referring clients to unlicensed homes. This practice serves as a disincentive to boarding and care home operators in becoming licensed and directly contradicts the State's policy of encouraging such licensing.

Furthermore, your Committee finds that this bill deals directly with the problem by clearly stating that the Department of Health and the Department of Social Services and Housing are to refer clients to unlicensed facilities only when no licensed facility is available, and only until such time as the unlicensed facility seeks licensing or until a licensed facility becomes available.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. 3013-76, H.D 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 591-76 (Majority) Health on H.B. No. 2169-76

The purpose of this bill is to protect the rights and health of both the smoker and non-smoker by regulating smoking in certain public places.

Your Committee on Health has received testimony overwhelmingly in support of this administration bill which was introduced by the Department of Health due to evidence indicating the harmful effects of smoking in an enclosed area, especially due to the increase in the carbon monoxide level. These effects have clearly been shown to be harmful to the non-smoker. It is not merely a matter of discomfort and annoyance for the non-smoker. Studies have shown that the results may actually trigger acute illness in those with chronic pulmonary or heart disease. The report of the Surgeon General uses the term "Involuntary Smoking" to show that non-smokers in a smoke-filled environment are exposed to many of the same constituents of tobacco smoke that voluntary smokers experience.

Your Committee on Health has further found that as many as 26 states and the District

of Columbia have prohibitions on smoking in certain public places.

Your Committee has amended the substance of this bill to conform with testimonies received in the Senate Health and Judiciary Committees to:

1. Change the prohibition to apply only to certain places owned and operated by the State.
2. Add a provision allowing for ejection of a person by a police officer from the designated premises if the person continues to smoke after he has been cited by the police officer.
3. Provide general language relating to a citation and its issuance.

Your Committee on Health is in accord with the intent and purposes of H.B. No. 2169-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2169-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee. Senators Takitani and Ching did not concur.

SCRep. 592-76 Health on H.B. No. 3248-76

The purpose of this bill is to promote an effective developmental disabilities program by placing the developmental disabilities council within the Department of Health: by restating the definition of "developmental disability"; and by clarifying the responsibilities of the council.

The bill amends Act 198 by clarifying the definition of developmental disability to conform to Federal guidelines. Your Committee on Health is in accord with the amendment relating to the definition of developmental disability.

The bill as redrafted by the house places the council in the department of health, for administrative purposes only, instead of the Office of the Governor. Your Committee on Health does not concur with this change. During the 1975 session, during interim hearings, and during the current session, your Committee has received extensive testimony from agencies and individuals interested in the developmentally disabled person which strongly emphasized the importance of the independence of the council from any one State Department. Your Committee went into conference on this matter last year (CONFERENCE COMMITTEE REPORT NO. 5, April 9, 1975) and found "This bill also gives the Council sufficient stature to provide monitoring, evaluation of existing services, and planning for new community services. Most important, this bill provides for the Council to coordinate activities on behalf of the developmentally disabled in the various departments and private agencies, and ensures their participation in the activities of the Council." It is the feeling of your Committee on Health that H.B. No. 3248-76, H.D. 1 effectively takes away the 1975 legislative decision by seriously compromising both the independence and the stature of the developmentally disabilities council.

Your Committee on Health after careful consideration has made the following amendments to H.B. 3248-76, H.D. 1:

1. On Page 2, Lines 10-15 should read, "The state planning and advisory council on developmental disabilities (hereinafter referred to as the state council or the council) shall be relocated to the office of the governor placed in the department of budget and finance for administrative purposes only and assigned the following responsibilities: "
2. On Page 4, Lines 10-17 should read, "Designate areas of responsibility for services to both public and private agencies serving developmentally disabled clients, reviewing such designations as necessary. Identify gaps in services to the developmentally disabled and coordinate responsibilities of various public or private agencies for such missing services."
3. On Page 4, lines 18-24 should read, "Insure that implementation planning by the various departments is effectively coordinated and that interdepartmental programs receive the full support of all departments involved."
4. On Page 5, Lines 2-6 should read, "Monitor, evaluate and approve implementation plans of the various public and private agencies for the developmentally disabled."
5. On Page 5, Line 11 should read, "school and hospital by insuring."
6. On Page 5, Line 21-23 should read, "[and] the legislature, and all concerned



department heads on all issues affecting the developmentally disabled."

7. On Page 6, Lines 6-8, should read, "(A) Prepare and submit annual reports to the governor, the legislature, and all concerned department directors heads on the implementation of the state plan.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 3248-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 3248-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Takitani.

SCRep. 593-76 Health on H.B. No. 2074-76

The purpose of this bill is to require that all health care insurance policies which provide maternity benefits include coverage of pregnancy complications.

Your Committee on Health has found that insurance coverage is inadequate for most middle-income women in Hawaii in the area of antepartum (prior to delivery) maternity coverage. Lack of coverage for pregnancy complications can cause severe economic hardship and may cause some women to forego needed care or tests because of financial considerations. This cost is then frequently passed on to the State if complications result in birth defects, necessitating long-term and very expensive institutional care.

Your Committee finds that the omission of maternity coverage from major medical coverage of health care plans is a major one and an obvious oversight.

It is not the intent of this bill to invite the inclusion of other specialized medical care areas in health care plans, but rather, to offer coverage in a major area previously neglected.

The intent of this bill is to be fair to women who choose to give birth to "normal" babies but cannot foresee pregnancy complications.

Your Committee on Health further finds that such coverage is common for other health plans on the mainland. It has been found that carriers such as Blue Cross-Blue Shield and Prudential cover between 85 and 100% of services, including nursery and procedures resulting from complications, while Hawaii based carrier covers only fifty-one to fifty-five percent of normal maternity charges and as little as 20% in cases having complications. Such coverage is provided locally under Kaiser Foundation Health Plan and for DSSH clients.

Although the goal of keeping the cost of health care insurance as low as possible is important, your Committee strongly feels that this objective must be balanced against the strong public interest in assuring the availability of adequate medical services to the citizens of the State.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2074-76, H.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Takitani and Ching.

SCRep. 594-76 Human Resources on S.C.R. No. 59

The purpose of this concurrent resolution is to request the Congress of the United States to cancel the indebtedness of the states to the federal account in the unemployment compensation trust fund for advances to pay unemployment benefits.

Your Committee finds that Hawaii's unemployment insurance rate schedules were designed to cope with a recession of not more than 18 months' duration. They have proved to be inadequate to maintain the solvency of the Trust Fund during the present economic recession, which has continued for five years. Your Committee further finds that although the emergency flat contribution rate of 3.0 percent went into effect in April 1975, the Trust Fund balance continued to decline, and was depleted in February 1976. By the end of April 1976, Hawaii will have borrowed a total of \$19 million from the federal account in the Federal Unemployment Trust Fund in order to subsidize benefit payments.

The current economic recession is expected to continue with unemployment not diminishing to a manageable level until the 1980's. Under these conditions, benefit payments and,

therefore, employers' contribution rates will remain high and will undoubtedly increase beyond current levels.

Your Committee believes that this concurrent resolution will relieve the burden of the states to the federal account in the unemployment compensation trust fund during an already difficult period.

Your Committee on Human Resources is in accord with the intent and purpose of S.C.R. 59 and recommends that it be adopted.

Signed by all members of the Committee.

SCRep. 595-76 Energy/Natural Resources on H.B. No. 1185

The purpose of the bill is to change the length of time for reporting the sale or use of fuel from one month to 21 days following the end of each month. The bill also adds a requirement for reporting the estimated supplies of fuel for the forthcoming month.

Your Committee finds that present federal regulations provide for the reporting of estimated supplies of fuels in advance of each month. Information of this nature is necessary to plan for any contingencies which might arise in connection with fuel shortages and other emergencies, and to provide adequate information for the State's planning process. The bill, which amends chapter 486E, Hawaii Revised Statutes, will also provide for a continued supply of information in the event that federal regulations are no longer required. The reason for changing the time required for reporting actual sales during the preceding month is to simplify the reporting process by making a common reporting date for both types of information.

Your Committee has amended the bill by providing for the confidentiality of the data provided to the State by the liquid fuel distributors. Such data, if made public, could be utilized by competitor distributors and others for their own advantage.

Your Committee on Energy/Natural Resources is in accord with the intent and purpose of H.B. No. 1185, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1185, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 596-76 Military and Civil Defense on H.B. No. 2090-76

The purpose of the bill is to provide that the State Attorney General, his deputy, special deputy or appointee, shall defend any civil or criminal action brought against a member of the State militia for any act or omission which reasonably appears to have occurred in the performance of service and which was reasonably done in line or performance of duty.

Your Committee is informed that in view of the risks of civil and criminal actions, a member of the State militia will hesitate to act even though it may be in line or performance of duty. Enactment of this bill will make the member more responsive.

Your Committee on Military and Civil Defense is in accord with the intent and purpose of H.B. No. 2090-76, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 597-76 Education on H.B. No. 3020-76

The purpose of this bill is to allow probationary teachers whose contracts are not renewed because of enrollment decrease or other reasons beyond the control of the department to retain their probationary status.

This bill corrects the present situation in which probationary employees lose all previously accumulated employment credit when their contracts are not renewed because of enrollment decreases at their schools.

It is the understanding of your Committee that tenure will be granted to teachers who have completed their probationary period only if they are contracted to fill an unencumbered position, that is, a position to which a tenured teacher will not return.

The purpose of the amendment to the bill is to make the provisions of this act retroactive to September 1, 1975.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 3020-76, H.D. 1, as amended and attached hereto as H.B. No. 3020-76, H.D. 1, 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. 598-76 Education on H.B. No. 3103-76

The purpose of this bill is to revise the statutes establishing classifications for teachers and educational officers.

Your Committee found that the bill would in effect remove the classification for educational officers from the statutes and would place the classification and pricing procedures for educational officers solely under the board of education.

Your Committee has amended the bill to retain the existing statutes relating to the classification and compensation of teachers and educational officers. However, the Committee has proposed new statutes that will allow the department of education to develop a classification and pricing plan for educational officers, subject to approval by the governor and the legislature.

A further amendment to the bill was made in the deletion of the sentence beginning on line 6 and running through line 9 of page 8, which sought to establish a working relationship between the department of personnel services and the board of education. This deletion is at the request of the department of personnel services, which said that it would provide the requested assistance without statutory mandate.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 3103-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3103-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 599-76 Housing and Hawaiian Homes on H.B. No. 2165-76

The purpose of this bill is to enable the Department of Hawaiian Home Lands to designate the location of the homesite on residential lots of less than 10,000 square feet.

Section 207(a) of the Hawaiian Homes Commission Act allows location of homesites at the option of lessees. The Waimea ranch lots and the Hoolehua farm lots reflect the flexible interpretation of this provision which resulted in exorbitant costs to the State for site development, water, roads, and electric utility access.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2165-76, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 600-76 Housing and Hawaiian Homes on H.B. No. 2168-76

The purpose of this bill is to grant the Department of Hawaiian Home Lands full authority to manage available Hawaiian home lands not required for leasing and to establish a single land management system; to provide for a system of supervision and collection in order to coordinate authorized use of lands; and to facilitate finalization of all land exchanges.

Presently under section 204(a) of the Hawaiian Homes Commission Act, the Department of Hawaiian Home Lands through the Department of Land and Natural Resources may dispose of lands by lease or license to the general public. This section places certain restrictions, i.e. month-to-month tenancy and grant of easement, on the Department in the management and disposition of its available lands.

The administration has established a policy that available Hawaiian home lands not required for leasing for homesteading purposes should be wholly managed by the Department of Hawaiian Home Lands rather than the Department of Land and Natural Resources. A land section has been created to provide prudent management of available lands.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and the

purpose of H.B. No. 2168-76, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 601-76      Judiciary on H.B. No. 2127-76

The purpose of this bill is to authorize the Director of Consumer Protection to issue subpoenas requiring the production of books, papers, documents or objects which he deems relevant or material in connection with his investigation pursuant to and in accordance with the rules of court.

Under existing law the Director of Consumer Protection may issue subpoenas to any individual or to any director, officer, employee or agent of any business organization in the State during the course of his investigation. However, the existing law is unclear as to whether said Director may issue subpoena duces tecum to require the production of books, papers, documents or objects which are relevant to an investigation. This bill would clarify that the Director of Consumer Protection has such authority.

Your Committee recommends that this bill be amended for technical reasons without affecting any of the substantive provisions therein.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2127-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2127-76, S.D. 2.

Signed by all members of the Committee.

SCRep. 602-76      Judiciary on H.B. No. 2210-76

The purpose of this bill is to amend Chapter 195D, Hawaii Revised Statutes, in order to qualify the State of Hawaii to participate in the benefits of the Endangered Species Act of 1973 (Public Law 93-205).

Act 65, Session Laws of Hawaii 1975, provided the statutory authority to the Department of Land and Natural Resources for the establishment of programs for the preservation and conservation of all of Hawaii's unique fauna and flora, particularly threatened and endangered species of plant and animal life and providing for the full participation by the State of Hawaii in cooperative programs with the federal government as provided for in the Endangered Species Act of 1973. Entry into such an agreement would preclude federal preemption of Hawaii's authority to regulate the "taking" of resident threatened or endangered fish or wildlife and make Hawaii eligible to receive federal grant-in-aid funds up to twothirds of approved program costs.

Your Committee on Judiciary concurs with the findings of your Committee on Ecology, Environment and Recreation in Standing Committee Report No. 512-76.

Your Committee also recommends that this bill be amended for technical reasons without affecting any of the substantive provisions therein.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2210-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading, in the form attached hereto as H.B. No. 2210-76, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 603-76      Judiciary on H.B. No. 2256-76

The purpose of this bill is to require the board of directors of all associations of apartment owners of condominium projects to purchase and at all times maintain insurance which covers the common elements and, whether or not part of the common elements, all exterior and interior walls, exterior glass, floors, and ceilings against loss or damage by fire and such other hazards (including flood insurance if the property is located in an identified flood hazard area as designated by the federal Department of Housing and Urban Development) sufficient to provide for the repair or replacement thereof in the event of such loss or damages. The bill further provides that the insurance carrier shall annually provide the board of directors with a written summary, in layman's terms, of the insurance coverage and that the board of directors shall be responsible for its dissemination to each apartment owner.

Under existing law the manager or board of directors, if required by the declaration,

bylaws, or a majority of the apartment owners, shall obtain insurance for the property. Your Committee agrees that in order to protect condominium owners, all condominium projects should be required to have the insurance coverage required by this bill and that the owners should be made aware of the nature and extent of such coverage.

Your Committee recommends that this bill be amended to delete the requirement that the original furnishings supplied by the developer shall be covered by the insurance purchased by the association. This requirement is too restrictive and may be prohibitive at times. The board of directors should have the discretionary power. Your Committee also recommends that page 2 of this bill be amended for technical reasons without affecting any of the substantive provisions therein.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2256-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2256-76, H.D. 1, S.D. 2

Signed by all members of the Committee.

SCRep. 604-76      Judiciary on H.B. No. 2893-76

The purpose of this bill is to provide for a civil penalty which may be assessed against any person who violates Chapter 514, Hawaii Revised Statutes, or the rules of the real estate commission adopted pursuant thereto. Each violation shall constitute a separate offense.

Under existing law the real estate commission may bring an action in court to bring a cease or desist order for a violation by a developer while he is in the process of selling units in a condominium project. However, once sales are closed the commission has encountered difficulties in handling violations in that their only available recourse is to file a complaint with the office of the prosecuting attorney under the existing criminal penalty provisions of Section 514-46, Hawaii Revised Statutes, as amended. Your Committee finds that this bill provides for a faster and more efficient method to remedy violations and thereby deter the same by allowing the real estate commission to collect a civil penalty for violation.

Your Committee recommends that this bill be amended by deleting the words "of not less than \$500 nor more than" in lines 15 and 16 on page 1 and insert in lieu thereof "not exceeding."

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2893-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2893-76, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 605-76      Judiciary on H.B. No. 2894-76

The purposes of this bill are as follows: (1) allow condominium apartment owners to transfer parking stalls; (2) authorize condominium associations of apartment owners to collect all costs and expenses, including reasonable attorney's fees, in enforcing breaches of covenants of apartment owners and similarly allow apartment owners who are unfairly accused of violating the terms of the declaration, bylaws, etc., the right to recover all costs and expenses, including reasonable attorney's fees, resulting from defending themselves from actions of the association of apartment owners, (3) require each developer of a project to prepare and provide to each prospective initial purchaser an abstract which shall contain the following: (a) the name and address of the project, and the name, address, and telephone number of the developer or his agent and of the project manager or his agent, (b) a general narrative description stating the total number of apartments, the types and intended use of the apartments, the total number of apartments that may be included in the project by reason of future expansion or merger of the project, and a precise statement of the nature of the interest being offered, (c) a breakdown of the annual maintenance fees revised and updated at least every twelve months and certified to have been based on generally accepted accounting principles, (d) a brief description of all warranties being offered by the developer, stated separately for the individual apartments and the common elements, including the date of initiation and expiration of such warranties, and (e) a statement of commercial or other nonresidential development in or near the project and the potential effects of such development on the interests, rights, or obligations of the apartment owners; (4) allow the apportionment of charges and distribution in any fair and equitable manner as set forth in the declaration in mixed use projects containing apartments for both residential and commercial use; (5) require one year warranty from the developer of a condominium project from the

time of initial occupancy of the project covering the full cost of labor and materials for any repair or replacement of all common and limited common area items.

Your Committee is cognizant of the many problems arising in condominium living here in this State and is sympathetic to the needs of the condominium owner. Your Committee strongly recommends that the Real Estate Commission hold at least one public hearing not less than three months prior to the opening of the regular session of the legislature for the purpose of providing to the board of directors of the association of apartment owners and the individual apartment owners an opportunity to testify with regard to legislation recommended by them or the Commission as part of its function. This hearing shall be publicly announced by the Commission two weeks in advance thereof.

Your Committee recommends that this bill be amended as follows:

1. Amend paragraph (2) in the disclosure requirement Section in lines 22-24 and 1-6 on pages 2 and 3, respectively, to read as follows:

"(4) A statement of the proposed number of apartments to be used for residential or hotel use in a mixed use project containing apartments for both residential and hotel use."

2. Amend paragraph (4) in the disclosure requirement Section in lines 12-16 on page 3 as follows:

"(3) A description of all warranties for the individual apartments and the common elements, including the date of initiation and expiration of any such warranties."

3. Amend paragraph (5) in the disclosure requirement Section in lines 17-20 on page 3 as follows:

"(5) A statement of the extent of commercial or other non-residential development in the project."

4. Delete the warranty Section in lines 1-18 on page 5.

Your Committee finds that such a disclosure requirement would make the prospective initial purchaser of an apartment better informed of his rights and safeguard him from possible misrepresentation or misunderstanding regarding the matter of the development, maintenance fees, or warranties. It is common for a contractor to give a warranty on a new project against major construction defects, flawed materials and poor workmanship for the first year. The warranty usually runs for one year from the date of acceptance or completion of the project and not from the date of purchase or initial occupancy of the project. Your Committee finds that it may be an unreasonable burden to require a developer to furnish a one year warranty from the time of initial occupancy of the project, especially in view of the fact that a project may have been sitting on the market for months awaiting a buyer.

Your Committee further recommends that this bill be amended by amending Section 514-20, Hawaii Revised Statutes, relating to the bylaws, as follows:

1. Amend paragraph (11) by reducing the voting requirements "from seventy five per cent" to "two-thirds" to enable the apartment owners to modify or amend the bylaws.

2. Amend paragraph (13) by allowing a "vendee under an agreement of sale" to be a member of the board of directors and eliminating the "spouse of an owner" from serving on the board.

3. Amend paragraph (14) by providing that a director shall not vote at any board meeting on any issue in which he has a conflict of interest.

4. Add the following new paragraphs:

"(15) No resident manager of the condominium shall serve on the board of directors.

(16) The board of directors shall meet at least once a year.

(17) Notice of association meetings, whether annual or special, shall be sent to each member of the association of apartment owners at least fourteen days prior to such meeting, and shall contain at least: the date and time of such meeting, the place of such meeting, the items on the agenda for such meeting and a standard proxy form authorized by the association, if any.

(18) A proxy form which accompanies a notice of meeting shall be valid for the meeting to which the notice pertains and its adjournment only.

(19) The resident manager or managing agent, or board of directors shall keep an accurate and current list of members of the association of apartment owners and their current addresses, and the names and addresses of the vendees under an agreement of sale, if any. The list shall be maintained at a place designated by the board of directors.

(20) All association and board of directors' meetings shall be conducted in accordance with Roberts Rules of Order, or other accepted rules for the conduct of meetings.

(21) The members of the association of apartment owners may require, by vote at the annual meeting, a yearly audit of the association books by a certified public accountant.

(22) All meetings of the association of apartment owners shall be held at the address of the condominium project, or elsewhere within the State as determined by the board of directors."

Your Committee further recommends that a saving and severability clause be inserted in the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2894-76, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. NO. 2894-76, H.D. 1, S.D. 3.

Signed by all members of the Committee.

SCRep. 606-76      Judiciary on H.B. No. 3075-76

The purpose of this bill is to define the ownership of all solid waste generated in the State.

Your Committee finds that with the decreasing supply of natural resources it will become necessary to recover and reuse solid waste as a source of needed materials. Unless the ownership of solid waste is clearly resolved, it will be impossible to intelligently plan for a resource recovery system and the success of such a system will depend upon a constant and continuous supply of waste materials. Your Committee finds that the recovery and reuse of solid waste is ecologically sound and should be encouraged.

The collection of solid waste in Hawaii is being handled by several entities. Presently, the City and County of Honolulu is the only county which has established ownership of wastes. Revised Ordinance 4339, Section 9-1.2(b) of the City and County of Honolulu defines ownership as follows:

"Any refuse removed by the City and County of Honolulu and any waste accepted by the City shall become the property of the City."

This provision accounts for ownership of only 45 per cent to 55 per cent of the municipal refuse generated on Oahu. Furthermore, it does not define the transfer of ownership at the point the solid waste is generated, removed or accepted for processing, disposing, or transferring at an incinerator, landfill site, resource recovery facility or transfer station. It also does not consider the ownership of solid waste collected or accepted by a private collector or operator. This situation may result in possible legal problems as the value of solid waste increases with the operation of a resource recovery facility. The success of any energy resource recovery system will depend on the proper directing of this solid waste.

This bill provides that unless otherwise provided by county ordinance, the owner of solid waste shall be: (1) the generator of the solid waste until the solid waste is collected; (2) the collector until the solid waste is deposited with an operator; (3) in the absence of a collector, the generator of the solid waste until the solid waste is deposited within a transfer station or landfill site of a collector or operator; (4) the operator, until such time that the residues of processing and the unprocessed materials are disposed of at a certain disposal site or accepted by a collector.

Your Committee recommends that the bill be amended by creating a new definition "generator" and arranging the definitions in alphabetical order. Your Committee further recommends that the bill be amended in lines 510 on page 3 as follows: "(3) in the absence of a collector, the generator of the solid waste until the solid waste is deposited with an operator; or (4) the operator upon acceptance of the solid waste."

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3075-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3075-76, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 607-76 (Majority) Judiciary on H.B. No. 3208-76

The purpose of this bill is to require that occupants of lands taken under the power of eminent domain be offered a permit to remain on the land until the land is actually needed for the public purpose for which it was condemned.

Your Committee has made one substantive amendment to this bill. Subsection (c) has been added, requiring the condemning authority to ensure that any structures meet all applicable code provisions, ordinances, rules, and laws relating to sanitation, health, and safety, and requiring the condemning authority to bear all liability for the condition of structures on land for which a permit is granted.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3208-76, H.D. 2, S.D. 1, as amended herein, and recommends that it be placed on the calendar for Third Reading in the form attached hereto as H.B. NO. 3208-76, H.D. 2, S.D. 2.

Signed by all members of the Committee. Senator George did not concur.

SCRep. 608-76 Judiciary on H.B. No. 2103-76

The purpose of this bill is to amend the existing insurance law to incorporate amendments adopted by the National Association of Insurance Commissioners to effect certain revisions in the "Model NAIC Standard Valuation Law" and the "Model NAIC Standard NonForfeiture Law".

This bill amends the existing law in the following respects:

- (1) Establish new valuation mortality standards for annuity and pure endowment contracts in the 1971 Group Annuity Mortality Table and the 1971 Individual Annuity Mortality Table;
- (2) Allow for the use of interest rates not to exceed six per cent for group annuity and pure endowment contracts and individual single premium immediate annuity contracts and four per cent for all other individual annuity and pure endowment contracts to January 1, 1986;
- (3) Establish an operative date of January 1, 1979 or earlier at the election of each company for the amendments discussed above;
- (4) Establish a January 1, 1986 cutoff date for the increase in rates.

The Director of Regulatory Agencies testified in favor of the bill as it is in the best interest of policyholders, insurance supervisory officials and the industry to have uniformity in the basic actuarial factors of interest and mortality assumptions. These recommended amendments by the National Association of Insurance Commissioners have already been adopted in 41 other jurisdictions.

Your Committee noticed a typographical error in dates in line 14 on page 9 of the bill and recommends that the bill be amended by deleting "January 1, 1976" and inserting in lieu thereof "January 1, 1986" to be consistent with the other sections of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2103-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2103-76, H.D. 1, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 609-76 (Majority) Judiciary on H.B. No. 2135-76

The purpose of this bill is to amend the existing election law in this State. Hawaii's election laws are not static and there is a need to amend the laws to reflect changes in federal laws, State laws, and the voice of the electorate and to implement methods and procedures which would result in the desired improvement in election administration.



This bill provides as follows:

1. Amend Sections 11-11 and 11-12, Hawaii Revised Statutes, to provide that a person who shall have attained the age of eighteen at the time of the election is eligible to vote in that election.
2. Amend Section 11-14, Hawaii Revised Statutes, to provide that the register shall contain the name, address, and primary ballot selection data essential for election purposes. Additional information required by Section 11-15, Hawaii Revised Statutes, may be included in the register at the discretion of the clerk.
3. Amend Section 11-15, Hawaii Revised Statutes, to delete age and place of current employment from the registration affidavit and to include the mailing address as part of the residence data.
4. Amend Section 11-12, Hawaii Revised Statutes, to exempt absentee voters from this provision.
5. Amend Section 11-24, Hawaii Revised Statutes, to change the closing date of registration for the general election from 26 days to 30 days prior to the general election.
6. Amend Section 11-95, Hawaii Revised Statutes, to add a provision stating that there shall not be any rescheduling of normal hours as a penalty to employees who vote.
7. Amend Section 11-115, Hawaii Revised Statutes, to reword for consistency and clarity.
8. Amend Section 11-119, Hawaii Revised Statutes, to add a provision (information from Section 11-112, Hawaii Revised Statutes) for determining type style and size to be used in the printing of ballots.
9. Amend Section 11-184, Hawaii Revised Statutes, to clarify the separate and combined responsibilities of the State and counties for election expenses.
10. Amend Section 12-6, Hawaii Revised Statutes, to reword for consistency and to add a provision for filing procedures to be followed by an indigent candidate.
11. Amend Section 15-7, Hawaii Revised Statutes, to define "absentee polling place" and to change all references to "absentee precinct" to read "absentee polling place".
12. Amend Section 19-6, Hawaii Revised Statutes, to reword for clarity.

Your Committee recommends that this bill be amended as follows:

1. Amend Section 12-2, Hawaii Revised Statutes, to change the primary election to the last Saturday of September in every even numbered year.
2. Amend Section 13-4, Hawaii Revised Statutes, to provide for the alphabetical listing of candidates for the board of education in the general election.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2135-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2135-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee. Senators Leopold and Saiki did not concur.

Minority Report on Stand. Com. Rep. No. 609-76 on H.B. No. 2135-76

Your Minority members believe that although this bill does make a half-hearted attempt to make certain needed changes in our election laws, it skirts the substantive issues and fails to provide certain needed reforms.

The matter of timing of the primary vis-a-vis the general election, a substantive issue of major importance and significance for this State, is only cursorily addressed by this bill in its present form.

In testimony before your Committee, the Elections Administrator in the Office of the Lieutenant Governor, the Chairperson of the Elections Advisory Committee, and the county clerks all indicated support for an earlier primary. These individuals pointed out the vital need to have ballots accurately prepared by general election day. Although

the short period of time between the primary and general elections has been a matter of continuing concern since the conversion to an electronic voting system, these individuals pointed out that the subject is of greater importance this year because of the Federal Voting Rights Act of 1975, which requires multi-lingual ballots throughout the State. While elections officials have in the past been hard pressed under normal conditions to provide single language ballots, they can expect larger and more complex problems with the advent of the multi-lingual requirement. Your Minority members believe that adequate time must be provided for proper pre-election preparations.

We believe that holding the primary one week earlier, as the draft proposes, falls far short of what is needed, and even two weeks earlier, as suggested by elections officials, is admittedly insufficient.

Elections officials also pointed out that because of the short period between primary and general elections, many absentee ballots are returned after the general election or not returned at all because of their late dispatch from the clerks' offices. This unduly brief interval thus effectively disenfranchises some citizens, and the State Elections Administrator pointed out in his testimony that as many as 500 citizens were so disenfranchised on Oahu alone in the last election. Only Hawaii conducts its primary in October, and even were the date moved up one week to the last Saturday in September, it would remain the last primary in the nation.

Euclid Lee, Chairperson of the State Elections Advisory Committee, stated in written testimony submitted to your Committee on Judiciary, that omitting a section from this bill providing for an earlier primary would be an "invitation to disaster". Your Minority members firmly believe, that in the face of the new federal requirements, and the urgency stressed in the testimony by elections officials before your Committee, partisan politics should yield to the compelling need to prevent a total breakdown in our election process. It is absolutely imperative, in our judgment, that the legislature act responsibly this session to give election officials the flexibility they urgently require in this election year and all elections hereafter. As indicated, even holding the primary two weeks earlier would not provide sufficient time to make adequate preparations.

A second substantive issue of importance, that this bill fails to address, is the timing between filing of nomination papers and the primary election. Section 12-6(1), Hawaii Revised Statutes, currently provides for a 45-day interim period. For the reasons specified above with regard to the primary date, most particularly the need to accurately design and print ballots in time for the primary election, your Minority members support the recommendation of the State Elections Administrator, again not reflected by this bill in its present form, that this interim period be extended from 45 to 60 days.

Thirdly, the bill in its present form inserts a new section 12-6(4), Hawaii Revised Statutes, which provides for waiver of the filing fee for indigent candidates upon filing of a petition signed by at least one-half of 1 per cent of the registered voters of the appropriate district, in lieu of nominating papers. Your Minority members believe that paragraph (4) is being inserted only to comply with a recent United States Supreme Court decision, *Lubin v. Panish* (1974), which requires clerks to waive filing fees for indigents. We believe the provision accomplishes little else. If the intent of the provision, in addition to minimum compliance with the court decision, is to assist the less affluent to run for public office, then as a matter of substance it represents merely a token of such an intent. To accomplish this objective, we believe that major reforms are necessary, far more than the token effort that this bill represents in that regard.

An additional serious reservation we maintain with regard to the matter of indigent candidates is that the term "indigent" is at no point defined in the election laws. This simply invites confusion and unequal treatment, rather than the assistance to indigents the bill purportedly provides.

For these reasons, your Minority members of the Committee on Judiciary are not in accord with the intent and purpose of H.B. No. 2135-76, H.D. 1, S.D. 1, and recommend that your Senate conferees strongly and vigorously support our stated objections to this bill.

Signed by Senators George, Leopold and Saiki.

SCRep. 610-76      Judiciary on H.B. No. 2171-76

The purpose of this bill is to amend various sections of the Hawaii Occupational Safety and Health Law, Chapter 396, Hawaii Revised Statutes. The amendments proposed are basically intended to clarify the State law, to conform it to the federal Occupational Safety and Health law, to protect the Department's employees from civil suits and criminal

acts; to establish additional appeal rights for employees in discrimination and variance cases; and to make certain technical changes.

The State, in accordance with its agreement with the federal government under Section 18 of the Occupational Safety and Health Act, must maintain its basic legislation (Chapter 396), safety and health standards, and the administration and enforcement thereof, in a position of being "at least as effective" as the federal counterparts. Most of the changes proposed by the bill are technical amendments and additions of this nature, and the Director of Labor and Industrial Relations urges their adoption so that Hawaii may continue to exercise jurisdiction in the field of occupational safety and health.

The specific proposals for amendment of the Hawaii Occupational Safety and Health Law are as follows:

1. Section 1 of the bill proposes a change in the definition of "Director" to expressly permit the administrator of the Division of Occupational Safety and Health to act in the Director's behalf as his designee; adds a definition of "Employee of the State."
2. Section 2 of the bill proposes a change in wording to emphasize the State's concern for all factors affecting a worker's safety and health on the job.
3. Section 3 proposes to add new language, stating explicitly that the Department shall prescribe rules for the adoption, amendment, or repeal of standards and to provide guidelines and procedures for the exercise of the Department's discretion in issuing emergency temporary standards and in granting variances from standards.
4. Section 4 proposes to add new language to protect employees of the State from being made parties in their individual capacities to civil actions arising from the performance of their duties under Chapter 396, Hawaii Revised Statutes.
5. Sections 5, 6, 7, 8, and 9 propose adding the words "citation", "standard", "rule", and "regulation" in various places in order to conform said Chapter 396 to federal requirements.
6. At the request of the Department, Section 5 of the original bill was amended by adding language giving employees who may be injured from the Department's arbitrary and capricious failure to assure abatement of an imminent hazard the right to seek a writ of mandamus compelling the Department to do so.
7. Section 6 proposes to add language to Section 396-6, Hawaii Revised Statutes, to conform to the federal Act.
8. Section 7 proposes language to clarify the types of discrimination prohibited. At the request of the Department, the Section was amended by substituting the word "instituted" for the word "instituting" in the original bill to indicate that the protection of the law extends to employees who file complaints which do not result in enforcement by the Department.
9. Section 8 also proposes new language to provide specifically for penalties for discrimination against employees for exercising their rights under the law and to set forth penalties in addition to those stated in the penal code for criminal offenses committed against an employee of the State acting under Chapter 396, Hawaii Revised Statutes. It also proposes to add specific requirements for posting notices or other documents issued by the Director and to provide criminal penalties for repeated violations leading to the death of an employee.
10. Section 9 also proposes new language to clarify review procedures and provide additional appeal rights for employees.
11. Section 10 also proposes to add new language to establish that the Appeals Board may not consider cases in which an order of the Director has already become final for failure to contest as provided by law.

Your Committee recommends that this bill be amended by deleting the brackets in lines 13 and 15 on page 12. The existing law "No bond shall be required from the department as a prerequisite to the granting of a restraining order" shall remain in its present form.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2171-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2171-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 611-76 Judiciary on H.B. No. 2371-76

The purpose of this bill is to vest a minor who has been or is married with all of the rights, duties, privileges, and responsibilities provided under civil law to a person who has attained the age of majority under civil law.

Your Committee finds that under present law, a married minor is not given expressly the rights and privileges of an adult, despite the fact that such a person has entered into marriage and has presumably left the care of his natural guardians. Under this present situation, a married minor may not, among other things, enter into contractual agreements, bring suit on one's behalf or on behalf of one's child, enlist in the military, establish residence, receive medical care, or adopt a child, including the child of one's spouse. Your Committee feels that this bill will provide certain necessary legal rights and responsibilities for such a person who has presumably attained maturity to enter into matrimony.

This bill does not change the status of a minor in connection with any criminal law matters, nor affects the exclusive jurisdiction of the family court over such persons under Section 571-11(1). In addition, this bill is not intended to apply to the rights and obligations of the minor prior to the minor's marriage.

Your Committee recommends that the bill be amended by deleting the reference to Sections 571-11(2)(a) or (b) in subsection (2).

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2371-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2371-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 612-76 Judiciary on H.B. No. 2473-76

The purpose of this bill is to provide for the renewal of the certificate of registration of motor vehicles in the various counties of the State on a staggered basis, if a county elects to do so, and to authorize the Director of Finance of the county to promulgate rules and regulations to carry out the purpose of the bill.

Your Committee is in agreement that the creation of motor vehicle registration on a staggered basis would alleviate the problems incurred by the present system of motor vehicle registration at one fixed time each year.

Your Committee recommends that this bill be amended for technical reasons without affecting any substantive provisions therein.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2473-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2473-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 613-76 Judiciary on H.B. No. 2593-76

The purpose of this bill is to provide sufficient notice to landowners whose property is subject to sale to satisfy a tax lien.

Your Committee finds that the notice requirements under the existing law relating to the foreclosure of real property to satisfy a tax lien is inadequate. This bill provides that publication of notice shall be in a newspaper with a general circulation of at least 60,000 published in this State and in any newspaper of general circulation published and distributed in the taxation district where the property to be sold is situated. If the address of the owner is known or can be ascertained by due diligence, including an abstract of title or title search, the tax collector shall send to each owner notice of the proposed sale by registered mail, with request for return receipt. If the address of the owner is unknown, the tax collector shall send a notice to the owner at his last known address as shown on the records of the Department of Taxation. The notice shall be deposited in the mail at least 45 days prior to the date set for the sale.

Your Committee recommends that this bill be amended by not deleting the phrase "if the land is improved" from the existing law. The Department of Taxation testified that if said phrase is deleted from the existing law, the cost of administering a foreclosure sale will be increased significantly where small unimproved parcels are involved. Your Committee further recommends that this bill be amended for technical reasons.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2593-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2593-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 614-76      Judiciary on H.B. No. 2617-76

The purpose of this bill is to clarify "unlicensed activity" in Section 448E-9, Hawaii Revised Statutes, and to allow an apprentice to work under a licensed person.

Your Committee recommends that this bill be amended as follows:

a. Delete subsection (a) in Section 448E-9, Hawaii Revised Statutes, in lines 6-12 on page 1.

b. Add the words "maintenance electrician" in subsection (b) Section 448E-9, Hawaii Revised Statutes, to conform Section 448E-9, Hawaii Revised Statutes, with Section 448E-4, Hawaii Revised Statutes.

c. Amend subsection (c), Section 448E-9, Hawaii Revised Statutes, in lines 4-7 on page 2 to read as follows:

"An apprentice or trainee learning the trade of a person licensed under this chapter shall not be required to have a license if he acts under the supervision of a person appropriately licensed under this chapter."

Your Committee feels that motion picture operator trainees should also be covered by these provisions.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2617-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2617-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ching.

SCRep. 615-76      Judiciary on H.B. No. 2678-76

The purpose of this bill is to require insurers to use the age of the insured as the most recent (last) birthday in determining a life insurance premium based on age.

The existing law is silent on the matter covered by this bill and the industry practice is to use either the nearest birthday or the most recent (last) birthday in determining life insurance premiums based on age. It is your Committee's understanding that the latter practice is becoming the more common of the two. Under the nearest birthday method, an applicant who became 25 years old on January 1, 1976 would have his premium rate based on age 25 if he applied for insurance during the period July 1, 1975 through June 30, 1976, and on age 26 from July 1, 1976 through June 30, 1977. Under the most recent (last) birthday method, this applicant's insurance age would follow his actual age 24 in 1975, 25 in 1976; and 26 in 1977, and his premium is determined accordingly.

Your Committee is in agreement that the use of a uniform method would avoid confusion. Testimony before your Committee indicated that the industry trend is to the use of the most recent (last) birthday method and this bill requires the use of that method in determining the age of the insured.

Your Committee recommends that this bill be amended by deleting the words "most recent" and inserting in lieu thereof the word "last" for purposes of clarity and to avoid confusion.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2678-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2678-76, H.D. 1, S.D. 1, and placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 616-76      Judiciary on H.B. No. 2786-76

The purpose of this bill is to establish a means whereby a court in its discretion may defer acceptance of a guilty plea (DAGP) for a certain period on certain conditions with respect to certain defendants.

Your Committee recommends that this bill be amended by deleting Sections 1 and 2 and insert in lieu thereof the following:

"SECTION 1. Chapter 706, Part I, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 706- Deferred Acceptance of Guilty Plea or Verdict. (1) All provisions of law to the contrary notwithstanding, upon a verdict or plea of guilty the court, in its discretion on its own motion or on motion of the defendant, may, without entering a judgment of guilt, defer further proceedings for such period of time as the court shall direct, but in no case to exceed the maximum allowable, and place the defendant on probation upon such terms and conditions as it may require.

(2) Upon fulfillment of the terms and conditions, if any, the court shall discharge the defendant and dismiss the proceedings against him. Discharge and dismissal shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon persons convicted of a crime.

(3) Upon violation of any term or condition, the court may enter a judgment of guilt and proceed to sentence the defendant as otherwise provided by law."

This bill, as amended, provides legislative approval and guidelines for a sentencing alternative, commonly referred to as "deferred acceptance of guilty plea" (DAGP), which is currently employed by the Circuit and District Courts in the First, Second and Fifth Circuits. This sentencing alternative is employed in those cases where the interests of both the public and the defendant are best subserved by discharging the defendant without a judgment of conviction, after the defendant has successfully completed a probationary period. In essence, the DAGP procedure is an extension of the conditional discharge procedure authorized by Section 1255 of the Hawaii Penal Code. Under Section 1255, the courts are authorized to discharge, without a judgment of conviction, defendants charged with certain drug offenses.

Your Committee finds that there are cases wherein the facts and circumstances clearly indicate that the defendants are one-time, situational or accidental offenders who will not engage in further criminal activity and do not pose a threat to the safety of the community. For these offenders, the humiliation and inconvenience of arrest and prosecution satisfy the need for punishment; and a trial and conviction would serve no purpose other than to impair the offenders' educational, employment, and professional opportunities and ability to function as a responsible and productive member of the community.

Your Committee further finds that the DAGP procedure, as a sentencing alternative, has the additional benefit of saving time and money for the criminal justice system without adversely affecting the public interest. It will further relieve the congestion in the courts and enable the criminal justice system to direct its limited resources where they can be most beneficial to the community.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2786-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2786-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 617-76      Judiciary on H.B. No. 2928-76

The purpose of this bill is to amend Chapter 578, Hawaii Revised Statutes, to provide for the adoption of an adult.

Your Committee finds that present law does not specifically allow the adoption of an adult. It is the feeling of your Committee that such provision be included in the present law relating to adoption to allow a parent to adopt an adult stepchild or an adult to adopt an adult niece or nephew.

Your Committee recommends that this bill be amended by inserting all the original provisions of H.B. No. 2928-76 and redrafting the new section in lines 4-14 on page 1.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2928-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2928-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 618-76      Judiciary on H.B. No. 3213-76

The purpose of this bill is to allow a partnership or a corporation to be licensed to participate in boxing contests. This bill also amends Section 416-142, Hawaii Revised Statutes, to permit persons licensed pursuant to Chapter 440, Hawaii Revised Statutes, to form professional corporations.

Under existing law only individuals may be licensed as professional boxers. This bill will enable a professional boxer to be licensed as a partnership or a corporation to participate in boxing contests. Thus a professional boxer may incorporate himself and have his corporation licensed pursuant to Chapter 440, Hawaii Revised Statutes.

Your Committee recommends that Section 1 of the bill be deleted as the activities under Chapter 440, Hawaii Revised Statutes, (with the exception of those acting as a physician) do not come within the definition of a profession. A corporation may be organized under the general corporation law to engage in any business, including boxing.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3213-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3213-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 619-76      Judiciary on H.B. No. 3239-76

The purpose of this bill is to define "electric gun" and set certain restrictions on its possession and use.

Your Committee is in agreement that the possession, sale, gift, loan or delivery of an electric gun shall be unlawful and that any person violating this provision shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

The Police Department of the City and County of Honolulu testified before your Committee to the effect that an "electric gun" is presently available which is capable of firing a missile that may emit up to 50,000 volts. Your Committee finds that such an instrument is detrimental to the safety and well-being of the general public.

Your Committee recommends that this bill be amended to provide that the violation be a misdemeanor and to exclude any electric livestock prod used in animal husbandry under the definition "electric gun".

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3239-76, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3239-76, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 620-76      Judiciary on H.B. No. 3280-76

The purpose of this bill is to amend the existing law to provide further protection to a gasoline dealer who sells petroleum products under a franchise with a petroleum distributor.

This bill provides that, in addition to the penalties provided under Chapter 486H, Hawaii Revised Statutes, a civil penalty of up to \$50,000 for each offense shall be assessed and recovered from the petroleum distributor in a civil action instituted by the attorney general or county attorney or prosecuting attorney in any court of competent jurisdiction.

The bill further provides that upon termination of a franchise by either party, the petroleum distributor, upon request of the gasoline dealer, shall take back any inventory from the gasoline dealer which was supplied by it and which has not diminished substantially in value and is of similar quality as when originally supplied, and shall reimburse the

gasoline dealer for ninety per cent of the amount paid or by cancelling ninety per cent of any debts owed on account of the inventory. The bill also adds the definition of "inventory" to Section 486H-1, Hawaii Revised Statutes.

Your Committee recommends that this bill be amended as follows:

(1) Delete the sentence in lines 6-10 on page 4 and substitute in lieu thereof the following: "The petroleum distributor shall reimburse the gasoline dealer for not less than ninety per cent of the cost paid by the gasoline dealer or shall cancel not less than ninety per cent of any debts owed on account of the inventory".

(2) Delete Section 4 of the bill in its entirety.

The State of Hawaii Association of Gasoline Dealers and the Shell Oil Company and Standard Oil Company of California, Western Operations, Inc., concur with these amendments.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3280-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3280-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 621-76 Ways and Means on H.B. No. 2155-76

The purpose of this bill is to increase the interest ceiling on general obligation bonds of the State.

Act 27, Session Laws of Hawaii 1968, fixed the interest rate on coupons of general obligation bonds issued by the State at 6.00 per cent. In 1968, the Bond Buyer's 20-Bond Index, a leading indicator of municipal bond interest rates, registered a high of 4.85 per cent. Since that time there has been a steady rise in bond interest rates. In the week ending October 3, 1975, it reached an all time high of 7.67 per cent.

Each year since 1970, the Legislature has temporarily authorized an increase in the interest ceiling to 8.00 per cent and only once did any single coupon rate on a State's bond issue equal 7.00 per cent. The average rate of issue is 6.45 per cent with respect to the last four bond sales, the average rate was below 6.20 per cent.

Your Committee recommends that an increase to 8.00 per cent is reasonable and this bill is revised to reflect this recommendation.

Your Committee heard testimony on the Senate version of this bill, S.B. No. 1799-76 and is in favor of the bill as amended by the House of Representatives. While we agree that a 6.00 per cent interest rate restriction is unrealistic, we believe that there should be some ceiling and the 8.00 per cent is reasonable. Total removal of an interest rate ceiling as proposed in the original version of the bill is unnecessary.

Your Committee has amended the bill by correcting a typographical error on page 1, line 9, changing "of" to "or".

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2155-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2155-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 622-76 Ways and Means on H.B. No. 2236-76

The purpose of this bill is to amend the ten per cent penalty provision on delinquent real property taxes.

Under the present provisions of section 246-49, Hawaii Revised Statutes, a ten per cent penalty shall be assessed on delinquent real property taxes. Thus, strict adherence to this law requires the flat ten per cent penalty on all delinquent real property taxes regardless of the duration of the delinquency.

The changes proposed by this bill will authorize the department of taxation to impose a rate of penalty up to ten per cent. For instance, in a case of illness, unexpected travel or other situation when it becomes difficult or impossible for the taxpayer to make payments



on time, the director of taxation would have the discretionary authority to impose a penalty of less than ten per cent. Such authority appears most fair and reasonable to your Committee.

The tax department indicated to your Committee that the revenue impact of this bill is nominal.

Your Committee has amended the bill at lines 11 to 14 to reflect amendments made by Act 75, Session Laws of Hawaii 1975.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2236-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2236-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 623-76      Ways and Means on H.B. No. 2237-76

The purpose of this bill is to add a definition to the state income tax law covering the term "without regard to source in the State".

This definition is necessary for the term "without regard to source in the State" appears frequently in the income tax law and the addition of this definition will serve to clarify the term as it is used in the law.

Your Committee has considered the various income tax relief proposals before it, including House Bill No. 2598-76 relieving the elderly from the general excise tax on drugs and House Bill No. 2575-76 providing a tax refund for all citizens. After such consideration, your Committee feels that the best solution for all citizens of the State and the state government is to increase the excise tax credits for the lower income persons and to allow the elderly, persons 65 and over, to claim a double excise tax credit. Further, to allow for inflation the income cut-off for the excise tax credit should be increased from \$15,000 to \$20,000. Your Committee has accordingly amended the bill to make such amendments. Your Committee has increased the tax credit by \$1 in adjusted gross income brackets up to \$8,000 as a device for bringing the whole question of tax relief before members of both houses for further discussion.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2237-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2237-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 624-76      Ways and Means on H.B. No. 3112-76

The purpose of this bill is to amend the state public assistance statutes, to conform with federal statutes and regulations and to be consistent with the legislative intent of previous amendments to this chapter.

The specific amendments proposed in the bill are as follows:

a) Repeal of Section 346-28 Transportation: Transportation allowance is no longer necessary as a special item. Pursuant to Act 145, Session Laws of Hawaii 1975, this allowance has been fairly averaged and fairly priced into the monthly standard allowance.

b) Section 346-29 Applications for public assistance; manner, form, conditions: The bill amends the definition of "net income" with regard to the Department's determination of need, by providing that "net income" for all cases shall be such income as the Social Security Act or other federal acts may require. The proposed amendment would allow the State to conform to federal statutes and regulations on an on-going basis, as well as allow for uniform application of the federal definition of income for all public assistance cases.

The bill amends subsection (5) of section 346-29 by designating the responsibility for defining "liquid assets" to the Department.

c) Section 346-53 Determination of amount of assistance: The bill amends subsection (c) of section 346-53 which deals with public assistance to children living in the homes of non-needy relatives and provides that the Department shall pay for shelter allowance

on behalf of these children.

The bill amends section 346-53, subsection (c) by making it clear that a child living with either a non-needy or needy caretaker will receive a basic needs allowance and shelter allowance as provided in this chapter. The purpose of this revision is to comply with the U.S. Supreme Court decision of Taylor vs. Lavine, prohibiting presumptions of income available to an AFDC child from non-needy caretakers.

Your Committee has deleted subsections of section 346-53 not being amended and made other technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. 3112-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3112-76, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 625-76 Ways and Means on H.B. No. 2227-76

The purpose of this bill is to provide an increase in the fee paid by motor carrier or private carrier of property for the safety inspection of each motor vehicle as required by the Commission's rules and regulations. The fee is raised from the present \$3 to \$6. The bill also lowers the weight fee of \$1 for vehicles weighing less than 56,000 pounds.

The present fee of \$3 was authorized by law in 1961, but the cost of labor, modernized and sophisticated inspection equipment, complex vehicular systems, and other requirements since 1961 have made it necessary to increase the safety inspection fee to a proposed \$6 for each safety inspection.

Your Committee has lowered the fees for each safety identification decal or emblem which must be obtained from \$3 to \$1.50 to offset the twice a year safety inspection being require. As the inspection is twice a year, the collection would still be \$3 per vehicle per year. The reduction in weight fees for vehicles weighing less than 56,000 pounds has been deleted. Your Committee has also deleted subsections of section 271-36, Hawaii Revised Statutes, which are not being amended as unnecessary to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2227-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2227-76, S.D. 2.

Signed by all members of the Committee.

SCRep. 626-76 Ways and Means on H.B. No. 24

The purpose of this bill is to amend the Hawaii Revised Statutes so as to allow the State of Hawaii to participate in the State Student Incentive Grant Program and make an appropriation for the program; amend the Hawaii Revised Statutes to allow the University of Hawaii to concurrently register a State Scholarship holder at two or more campuses without having to make use of two scholarship units; allow the University to adopt other rules and regulations as may be required to administer the scholarship program; and to make an appropriation for the College Work-Study Program.

The University of Hawaii pointed out in testimony that Act 195, Session Laws of Hawaii 1975, provided funds for a student incentive grant program which the university has implemented. Establishment of the program obviates the necessity of sections 1 and 2 of this bill which have been deleted. Your Committee has also amended the effective date of the bill from July 1, 1975 to July 1, 1976.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 24, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 24, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 627-76 Ways and Means on H.B. No. 3129-76

The purpose of this bill is to limit renegotiations in school bus contracts between the State and any private contractor.

The Department of Accounting and General Services now requires that in the interests of safety, no bus more than ten years old may be used by the school bus contractors

for the transportation of students. The contracts processed by the Department are for a period of three years with an option to renew for another three years, or conceivably a total of six years on which the contractors can generally rely.

The contractors expressed a concern over the contract period, since they purchase buses with a lifespan of more than ten years and usually an amortization period of ten years. They are faced with a unique question in terms of capital investments for the buses because of the ten-year age limitation. Furthermore, in rural areas, particularly on the neighbor islands where public transportation is limited, contractors making large capital investments for buses with limited use face a double jeopardy. This bill is not intended to circumvent the bidding laws of the State, but merely to alleviate some of the problems faced by bus contractors in this particular situation, and to provide protection to the State.

In addition, by permitting flexibility in contract negotiations for extensions, the Department of Accounting and General Services will be able to standardize existing contracts by letting them run out, then extending them until that time when they can all be negotiated at once. In this manner, the State will benefit from more competitive bidding for the various routes.

Your Committee has amended the bill to clarify the need for agreement between the parties prior to any contract extension, and to clarify the base upon which the five per cent is determined. The bill has been further clarified as to its applicability to existing contracts which may include optional extensions.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3129-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3129-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 628-76 (Majority) Ways and Means on H.B. No. 2698-76

The purpose of this bill is to provide that violations of parking restrictions established by any ordinance shall constitute violations under the Penal Code and that such violations would be subject to fines enforced and collected by the district courts to be deposited in the state general fund, with one-half of the collected amounts subsequently to be turned over to the counties for their use. This bill also prohibits the counties from imposing any other penalty or charge, criminal or civil, for such violations.

Your Committee has amended this bill to require the parking fines to be deposited in the state general fund for state use. Your Committee feels that such practice would be consistent with assuring uniform use of the derived revenues.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2698-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2698-76, H.D. 1, S.D. 2.

Signed by all members of the Committee. Senators King, Anderson, Henderson and Soares did not concur.

SCRep. 629-76 Ways and Means on H.B. No. 2150-76

The purpose of this bill is to amend section 456-2, Hawaii Revised Statutes. The bill eliminates the durational residence requirements that a prospective notary public be a resident of the State for one year; and increases the fees charged to notaries public by the attorney general for the issuance or renewal of a notary public commission and by the circuit courts for filing a copy of a notary public commission and for a certificate of authentication.

The elimination of the durational residence requirement is a housekeeping measure since a number of judicial decisions in recent years have made it clear that a durational requirement relating to residency cannot be upheld. The increase in fees charged notaries public by the attorney general and the circuit courts is necessary due to the increased administrative costs.

This bill further provides an increase in the bond amount for notaries in each judicial circuit to \$5,000 and eliminates the differential in bond amount that presently exists.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B.

No. 2150-76, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 630-76 Ways and Means on H.B. No. 2809-76

The purpose of this bill is to encourage the formation and successful operation of small business investment companies (SBICs). The bill exempts SBICs from the state usury statutes by providing that loans by such companies shall be subject to interest rates established by the federal Small Business Administration. The bill further provides that such companies shall be taxed in the same manner as financial corporations such as banks and industrial loans companies and shall not be subject to corporate income taxes. The bill finally provides an exemption for the general excise tax for all activities of SBICs.

Your Committee finds that a general exemption of all the activities of a SBIC from the general excise tax would exempt rental and other non-SBIC activity, if engaged in. Therefore, your Committee has amended the general excise tax exemption to limit the exemption to income derived from activities engaged in as provided by the federal Small Business Investment Act of 1958, as amended, except for consulting and advisory services allowed under that Act. This amendment equates SBICs with industrial loan companies which are presently engaged in similar activities.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2809-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2809-76, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 631-76 Ways and Means on H.B. No. 2377-76

The purpose of this bill is to statutorily distinguish between large and small fishing vessels, and to designate thereunder, the fishing vessel purchase, construction, renovation, maintenance, and repair loan program for large fishing vessels, and the Hawaii fishing vessel loan program for small fishing vessels. The bill further amends the Hawaii fishing vessel maintenance and repair loan program to include purchase, construction, and renovation.

Your Committee has amended the bill by requiring that the rules mandated by the bill be adopted pursuant to chapter 91, Hawaii Revised Statutes, the Hawaii Administrative Procedure Act.

Your Committee has also increased from 5-1/2 per cent to 7-1/2 per cent the interest rate of loans under the small fishing vessel program. This increase will conform the interest rates between the two fishing vessel loan programs.

Other technical and style changes have been made.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2377-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2377-76, S.D. 2.

Signed by all members of the Committee.

SCRep. 632-76 Ways and Means on H.B. No. 934

The purpose of this bill is to limit the retainage allowed under a public contract.

This bill limits the retainage in public contracts to a maximum of five per cent of the amount due the contractor until fifty per cent of the contract is completed with no retainage allowed thereafter as long as progress has been satisfactory. If the contracting officer determines that progress is not satisfactory, he may continue to withhold as retainage a sum not exceeding five per cent of the amount due the contractor. His decision shall be binding upon the parties.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 934, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 633-76 Ways and Means on H.B. No. 2136-76

The purpose of this bill is to clarify the existing law relating to the deposit of legal tender, certificates of deposit, cashier's check or certified check when accompanying a bid.

Sections 102-6 and 103-28, Hawaii Revised Statutes, provide for a deposit of legal tender, certificate of deposit, cashier's check or certified check, for or in a sum equal to five per cent of the amount bid; provided that the amount exceeds \$50,000, the legal tender, certificate of deposit, cashier's check or certified check shall be for \$2,500 plus two per cent of the amount in the excess of \$50,000.

Such deposit is specified to be a definite sum related to the amount bid. The Department of Accounting and General Services testified that bidders often submit deposits in excess of the amount required and these normally do not pose a problem and they are accepted as a general practice. The department has had instances when a bid must be rejected because the deposit amount is less than required. In some of these instances the rejected bidder argued that the bids accompanied by deposits in excess of the amount specified should also be rejected since they too do not conform with the existing statute. By adding the words "not less than" to sections 102-6 and 103-28, the problem can easily be corrected.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2136-76, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 634-76 Ways and Means on H.B. No. 1810

The purpose of this bill is to require state agencies to give preference to Hawaii services when purchasing services.

Under present law, state agencies are mandated to give preference to Hawaii products when purchasing products. This bill enlarges the preference to include purchase of Hawaii services. Hawaii services is defined as services performed by a Hawaii business including corporations incorporated in Hawaii and all of whose directors, officers, and employees are Hawaii residents.

Under the provisions of this bill, the Comptroller is directed to adopt rules for inclusion of types of services in the present Hawaii products list. The list would then become a Hawaii products and services list. Persons who apply to the Comptroller and are found to qualify as offering Hawaii services will be registered in the list. State agencies are mandated to purchase Hawaii services if the selling price of the Hawaii services does not exceed by ten per cent, the delivered or lowest bid in Hawaii of comparable services provided by a non-Hawaii business.

The bill also includes a preference for Hawaii services in public works contracts.

Your Committee has deleted the provisions providing that the Hawaii service shall be purchased where the selling price does not exceed by more than 10 per cent the delivered or lowest bid in Hawaii of the comparable service provided by a non-Hawaii business. Your Committee is interested in the concepts presented in this bill and believes that it is worth further deliberation between the two Houses.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1810, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1810, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 635-76 Ways and Means on H.B. No. 1624

The purpose of this bill is to restore to the shoreline setback law (Section 205-33, Hawaii Revised Statutes) two classes of prohibition that were omitted in error when the law was amended in 1974. These are (b) new shoreline structures and (c) replacement of shoreline structures. The revision of Section 205-33 proposed in this bill would restore the statutory underpinnings of county ordinances regulating construction in the shoreline setback area.

According to the bill, no structure or any portion thereof shall be permitted within the shoreline area, with the exception of those structures which legally existed on June

22, 1970 and those structures which may be necessary for safety and for protection from erosion and wave damage. The bill further permits the replacement or reconstruction of nonconforming structures within the shoreline setback area.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1624, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 636-76 Ways and Means on H.B. No. 1997-76

The purpose of this bill is to amend the real property tax law provisions relating to the dedication of land for residential use.

This bill extends the residential dedication to any fee simple owner, by eliminating the age restriction, and by allowing parcels for single family dwelling residential use, regardless of size to be so dedicated within hotel, apartment, resort, commercial, or on industrial districts.

The term of the period is clarified, and automatic renewal for ten year periods is authorized. The cancellation procedure no longer requires five year notice but may still be exercised by either the owner or the director of taxation. The penalty provisions are also revised to fix the date of retroactive assessments and the percentage penalty is raised from "eight" to "ten". Section 246-12.3, Hawaii Revised Statutes, is accordingly amended, and Sections 246-12.4 and 246-12.5 are repealed.

Your Committee has amended this bill to reinstate the 10,000 square foot lot size limit, as the bill should be directed at the small landowner, and not large landowners who may dedicate and later subdivide. Your Committee has also made certain technical amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1997-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1997-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 637-76 Ways and Means on H.B. No. 2717-76

The purpose of this bill is to increase the ceiling on replacement, construction, and repair loans made to lessees, to allow more flexibility in using the Development Fund, to provide for a Statewide Replacement Loan Fund and General Home Loan Fund; to provide more flexibility in interest rates; and to make minor clarifying amendments in the Act.

Under Sections 213 and 215 of the Hawaiian Homes Commission Act, 1920, as amended, the ceiling for construction and replacement home loans to lessees is \$25,000. It has been increasingly difficult to negotiate contracts for 3-4 bedroom homes of at least 1,300 square feet for \$25,000 at present building costs. Thus, raising the \$25,000 ceiling to \$35,000 would alleviate severe constraints on the quality and size requirements.

The present ceiling on repair loans is \$5,000. Increasing the limit on repair loans from \$5,000 to \$10,000 would encourage greater maintenance of homes and would therefore decrease need for replacement homes.

The Hawaiian Homes Development Fund presently restricts the use of this fund to the construction of sanitary sewage facilities, roads through Hawaiian Home Lands and other nonrevenue producing improvements. By broadening the provisions of the Hawaiian Homes Development Fund, it would allow the Department to: (1) properly maintain deteriorating assets; (2) permit authorization of projects where funding constraints have precluded progress; (3) permit purchase of equipment and construction required; and (4) allow for development of offsite and onsite improvements.

The Legislature has approximately \$5,250,000 for a revolving Statewide Replacement Loan Fund, and such a fund would provide the Department with the necessary tool to make funds available. The establishment of the General Home Loan Fund is intended to be used for appropriations by the Legislature which are not specified for disbursement through any other fund.

The proposed amendment to change the various subsections relating to interest rates

is intended to provide for consistency in application. The interest rates of two and one-half per cent or higher will be determined by the Department upon the borrower's ability to pay and the option to enforce higher interest rates by ability to pay will assist in alleviating the financial deficit problem.

Your Committee has made certain technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2717-76 as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2717-76, S.D. 1.

Signed by all members of the Committee.

SCRep. 638-76 Ways and Means on H.B. No. 2718-76

The purpose of this bill is to permit the Department of Hawaiian Home Lands maximum potential use of its funds authorized for planning, surveying, site preparation and development, and road improvement.

Presently, authorization for a number of Hawaiian Home Lands CIP projects restricts the use of these funds to such an extent that the maximum use of these funds is not possible. In other words, the department could not prepare, for example, 30 lots for approximately the same price as 25 lots unless flexibility is authorized.

There is sufficient area at Kuhio Village, which has a waiting list of 135, to construct 40 plus lots. One of the factors affecting the economics of the proposed housing package for the area is the amount of units to be built. More units will allow for a better house at a cheaper price.

The City and County of Honolulu has programmed the sewer trunkline to the Waianae sewage treatment plant to be in place in the Nanakuli area by 1981. Should the department proceed with road improvements without the sewer lines, it would necessitate coming back at a later date, breaking up the new roadway improvements to install sewer lines. This request is to allow the road improvements and the sewer lines to be done simultaneously.

The estimated cost of designing a sewage treatment plan and sewer line for the Anahola subdivision is approximately three times the amount originally appropriated. In addition, further research indicated there were no cesspool problems in the Anahola area over the past year and a comprehensive research and planning effort for the area should be undertaken before any requests are made for specific activities.

Your Committee has made technical and style amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2718-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2718-76, S.D. 2.

Signed by all members of the Committee.

SCRep. 639-76 Ways and Means on H.B. No. 2949-76

The purpose of this bill is to make amendments to several aspects of the State housing program.

Your Committee has extensively amended this bill by the addition of the following:

1. The first amendment proposes to provide additional flexibility in granting assistance to qualified elderly persons by increasing monthly rent supplement payments from \$70 to \$90. The elderly are generally in greater need of rental assistance due to their relatively low fixed incomes and the increased cost of living.

2. Sections 2, 3 and 4 of the bill, as amended, permit the Board of Land and Natural Resources to dispose of public lands at the nominal price of \$1 when such lands are to be used for the development of dwelling unit projects by the Hawaii Housing Authority; and also requires that disposition of public lands to the Authority expressly grant the Authority the reversionary interest, in the case of leases, and the sale right of first refusal under the buy-back provision, in the case of sale in fee simple. This amendment is in conformity with S.B. 2019-76, S.D. 1 as reported by your Committee on Judiciary in Standing Committee Report No. 488-76.

3. Section 5 of the bill, as amended, establishes a state land bank. This amendment

is in conformity with Section 6 of S.B. 1758-76, S.D. 2 as reported by your Committee in Standing Committee Report No. 493-76.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. 1758-76, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2949-76, S.D. 2.

Signed by all members of the Committee.

SCRep. 640-76 Ways and Means on H.B. No. 3230-76

The purpose of this bill is to substantially amend Part III, Chapter 359, Hawaii Revised Statutes to expand and reiterate the responsibilities of the Hawaii Housing Authority in providing housing for elderly persons.

Your Committee has amended the bill in the following manner:

1. Deleting pages 2 through 20 of the bill.

2. An amendment has been added, the purpose of which is to make uniform the State's definition of an elderly person with federal definitions currently being applied in federally assisted public housing projects. The federal programs now define an "elderly person" as one over the age of 62 years while present State statutes prescribe that a person be over the age of 65 to qualify for housing benefits as an "elderly person." The definition of "elderly person" is further amended by deleting the requirement that he be unable to secure safe and sanitary dwelling accommodations at a rental within his financial reach; inasmuch as this requirement is adequately covered in Sec. 359-58.1 Hawaii Revised Statutes. The proposed definition further seeks to expand the qualifications to include single individuals who are unable to engage in any substantial gainful activity because of physical or mental impairment which can be expected to result in death or to be of a long, continued and definite duration. Furthermore, any single individual with a physical impairment which impedes his ability to live independently and whose ability may be improved by more suitable housing conditions is also included in this definition.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3230-76, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3230-76, H.D. 2, S.D. 1.

Signed by all members of the Committee.

SCRep. 641-76 Ways and Means on H.B. No. 2335-76

The purpose of this bill is to provide assistance through loans to residents for the rehabilitation or renovation of housing units.

Your Committee agrees that a rehabilitation loan program is necessary to safeguard the quality of the State's housing stock. In view of the substandard nature of many housing units, and the limited funding which can be made available for this program, your Committee has made several amendments intended to clarify priorities for loans and make the limited funds available for this purpose more effective in supporting rehabilitation. The significant substantive amendments are as follows:

1. The bill has been amended to provide that the Hawaii Housing Authority may participate in loans made by private lenders for rehabilitation and renovation, with the State's share not to exceed fifty per cent of the principal balance of the loan on \$5,000, whichever is less. Your Committee feels that this amendment will enable limited funds to benefit more homeowners, while placing loan administration, collection, and other functions with the private lender who is experienced in such activities.

2. Qualified residents under this program will be limited to those persons whose annual adjusted family income is less than \$15,000. The authority will be permitted to alter this limit in response to changes in the cost of living.

3. Interest on loans under this bill will be limited to one and one-half per cent above the rate paid by the State for the general obligation bonds sold to provide the funds. Your Committee feels that this amendment is necessary to counterbalance excessive interest rates often charged on loans of this nature.

Numerous language changes conforming to these substantive amendments have also been made.



Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2335-76, H.D. 2, S.D. 1, as amended herein, and recommends that it be placed on the calendar for Third Reading in the form attached hereto as H.B. No. 2335-76, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 642-76 Ways and Means on H.B. No. 1886

The purpose of this bill is to raise the number of exempt employees within the Office of the Lieutenant Governor from six to ten.

Your Committee finds that since 1967, the demands made upon the Office of the Lieutenant Governor have increased and, the provision of "six" exempt employees have restricted the office from seeking and hiring employees beyond that number even if proper justification for more employees can be established. The additional positions authorized by this bill will help alleviate this problem.

Your Committee has made various typographical corrections to the bill and added the 1975 amendatory language to section 76-16(17), inadvertently omitted.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1886, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1886, S.D. 3.

Signed by all members of the Committee.

SCRep. 643-76 Ways and Means on H.B. No. 2022-76

The purpose of this bill is to have the Commission on Aging or the Executive Office on Aging, as the case may be, establish state policy for senior centers. The policy shall include, but not be limited to, the establishment of long range and immediate goals and objectives, state standards for the operation and maintenance of senior centers, priorities for program implementation, delineation of state and county roles relative to the administration of centers and the establishment of a monitoring mechanism.

Your Committee finds that since its development in 1968 and 1969, senior centers have proliferated throughout the State. These public and privately sponsored centers have become a gathering place where senior citizens can participate in activities which are satisfying and fulfilling and receive services that can assist them in their daily living.

Furthermore, your Committee finds that although the State does not have a network of senior centers with a coordinated system of administration and operation, senior centers have operated successfully on the neighbor island counties of Maui, Kauai, and Hawaii. On Oahu, however, a lack of coordination and leadership appears. Because of the variety of arrangements and preferences in the operation of service center programs, a clarification of the roles and responsibilities of state and county governments in this area is needed. Such a policy would allow for maximum effectiveness in administering Hawaii's senior centers.

Your Committee has amended the bill by deleting the appropriations clause. Your Committee feels that the appropriation is not necessary at this time.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2022-76, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2022-76, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 644-76 Ways and Means on H.B. No. 2722-76

The purpose of this bill is to increase the compensation of substitute referees employed by the Department of Labor and Industrial Relations from \$40 a day to Step G of the SR-26 salary range which is equivalent to \$78.48 a day.

Your Committee agrees with the finding that the referee's position was established in 1941 with the rate of compensation at \$20 a day, and that in June 1963 the compensation rate was increased to \$40 a day, where it still remains. The department is regularly staffed with one full-time referee at a salary range of SR-26. The current salary range for SR-26 at Step G is \$78.48 a day. The duties of the full-time and substitute referees are identical.

Your Committee believes this bill would support the concept of equal pay for equal work. Your Committee further believes that this bill would help to maintain the attractiveness of the position of substitute referee to qualified individuals, and will represent no cost to the State, as referees' salaries are paid from federal funds.

Your Committee has amended this bill by deleting the word "a" at line 7 of page 1, which was inappropriately inserted, and by inserting the word "also" at line 1 of page 2, which was inadvertently omitted.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2722-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2722-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 645-76      Ways and Means on H.B. No. 942

The purpose of this bill is to provide an increase of eight per cent to the regular bonus and to the special cost-of-living bonus for those who retired prior to July 1, 1965 only.

Your Committee finds that the pensioners bonus is a benefit which was originally conceived in 1945 to offset the rising cost-of-living and consists of two types: a regular bonus and a cost-of-living bonus. The regular bonus is payable basically to those who have ten or more years of service, who retired prior to 1965 and who are not eligible for Social Security benefits. The bonus has been increased throughout the years each time active employees received a salary increase to offset the rising cost-of-living. Each time a salary increase was provided active employees, a similar percentage increase was provided pensioners who retired prior to July 1, 1965 with the most recent being a five and a half per cent increase in 1974. Although this benefit is an addition to the post retirement allowance and to the regular bonus, your Committee feels that the regular bonus, cost-of-living bonus, and post retirement allowance have not overcome the increase in the cost-of-living.

Your Committee also finds that in 1974, the Legislature provided a special cost-of-living bonus to those who retired between July 1, 1965 and June 30, 1970 because this group did not participate in the liberal salary increases and the cost-of-living far exceed the annual post retirement increase of two and a half per cent. This benefit was five and a half per cent of the basic retirement allowance.

Your Committee has amended the bill by providing that on July 1, 1976 an additional 8 per cent bonus shall be paid to those persons retiring between July 1, 1965 and June 30, 1970 and who were receiving a retirement allowance from the system on June 30, 1974. Your Committee has also amended section 88-17, Hawaii Revised Statutes, to allow patient employees--those at Kalapapa--who retired after July 1, 1971 and prior to July 1, 1976 to partake of the bonuses provided. An appropriation of \$2 has been made, \$1 to the department of budget and finance and \$1, to the department of social services and housing.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 942, H.D. 1 and recommends that it pass Third Reading in the form attached hereto as H.B. 942, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 646-76      Ways and Means on H.B. No. 2713-76

The purpose of this bill is to enable the chief executives of the State and counties the authority to set compensation, hours, terms, and conditions of employment for excluded employees. However, any such adjustments requiring an appropriation will be subject to approval of the appropriate legislative body. This bill also clarifies the right of excluded employees to self-association, and to receive all rights and benefits negotiated through a collective bargaining agreement unit he would belong to if not excluded by law.

Your Committee finds that the current practice of making adjustments for excluded employees through individual legislative measures have proven to be uncertain and as a consequence, detrimental to the morale of excluded employees. These managerial and confidential employees are the representatives of management and are excluded from bargaining units, not by choice, but by law.

Your Committee believes that this bill will enable the chief executives to make timely and equitable adjustments appropriate to excluded employees.

This bill also provides that the directors of personnel services of the State and counties, the superintendent of education, and the president of the University of Hawaii shall recommend adjustments to the chief executives of the State or counties or to the board of education or the board of regents, which will be uniform and become effective at the same time as that of the included employees.

Your Committee has made typographical corrections to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2713-76, H.D. 2, S.D. 1 and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2713-76, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 647-76 Ways and Means on H.B. No. 682

The purpose of this bill is to lapse certain general fund appropriations which are unencumbered and which have not yet been lapsed by law.

Your Committee finds that in prior acts of the legislature, appropriations have been made for which there remain appropriations and appropriation balances which are unencumbered. The existence of these inactive appropriations obscures the true general fund position of the State. This is because the general fund balance at any point in time includes all appropriations, irrespective of whether the appropriation is being expended or not.

Your Committee has amended the bill by correcting the figures, resulting in a total of \$848,382.20 to be lapsed.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 682, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 682, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 648-76 Ways and Means on H.B. No. 2100-76

The purpose of this bill is to provide supplemental appropriations for the 1975-77 fiscal biennium.

#### MAJOR ECONOMIC AND FISCAL ISSUES CONFRONTING HAWAII

In formulating the Supplemental Appropriations Bill and the framework for the financial plan for the remainder of the current fiscal biennium, your Committee has given special attention to several major issues. These are (1) the problem of unemployment; (2) the burden of taxpayers, particularly homeowners faced with the problem of ever-increasing assessments; and (3) the impact of borrowing for capital investment which appears to be driving debt service costs to perilously high levels.

Unemployment. The latest unemployment figures for Hawaii showing the unemployment rate to be 9.3 percent, the highest in 27 years, make it painfully obvious that the unemployment problem continues to be serious. Moreover, it illustrates that even with the initiation of State employment programs made possible through appropriations in the 1975 session, conditions are worse than those a year ago, when the unemployment rate stood at 7.7 percent. It is speculative how much worse off the State would be today had there been no legislative initiatives last session, but it is probably safe to say that without State action, the unemployment slide might have been even deeper.

It is also painfully obvious that the State's unemployment problem, reflecting as it does a sluggish national economy, cannot be solved by State action alone. A job for every person who is willing and able to work is a policy which requires a massive commitment by the federal government toward economic recovery measures and direct employment programs. Such a commitment is uncertain at this time, and your Committee has had to proceed with no knowledge whether this State will be assisted by federal action.

As limited as State action and resources might be, your Committee believes that State

government should assist in every way that it can to prevent unemployment from deteriorating even further. Two measures have been developed which, upon enactment, your Committee expects the administration to implement with urgency. One measure appropriates a total of \$20 million for public service jobs and other employment programs. The other measure appropriates an additional \$20 million for the repair and maintenance of State properties and facilities. Hopefully, the infusion of additional funds into activities which directly affect the construction trades will have some beneficial effect on the construction industry which is, by far, the sector of the economy suffering hardest and longest from unemployment. Forty million dollars to deal with a single problem represents one of the largest general fund commitments the State has ever made, but your Committee believes that the commitment is both necessary and urgent.

Tax Relief. Rising real property valuations and inequities in tax assessments, in combination with other factors, such as inflation and the high cost of living, have resulted in growing discontent among Hawaii's real property taxpayers, especially homeowners. The real property tax has been regarded as a regressive form of taxation since it has no direct relationship to each property owner's ability to pay the tax. Its inequity is best illustrated by the homeowner on a fixed income who is faced with an increase in property taxes. Unlike the owner of other classes of property, such as apartments and hotels or commercial and industrial property, the person who lives in his own home cannot shift the burden of the real property tax to anyone else. And if he continues to live in his own home, he is taxed for an increasing economic value assigned to his home even though he does not receive that value.

The problem which the homeowner is a real and growing one, and your Committee has sought to ameliorate that problem through two separate but complementary measures. The first measure increases the home exemption from \$8,000 to \$12,000. This is the simplest and most direct form of tax relief. The second measure fixes the percentage of fair market value at which property is assessed at 60 percent, a lower ratio than the 70 percent of market value ratio which the Department of Taxation has been using for assessment purposes. The lower assessment ratio, coupled with the higher home exemption, should provide some relief to homeowners or at least cushion the homeowner from any sharp increases. While taking these immediate actions to provide real property tax relief, your Committee also intends to pursue the possibility of implementing some form of the "circuit-breaker" concept in the near future as a means for aiding the fixed-income homeowner.

There is the possibility of passage of still other tax relief measures which are now under consideration by the legislature.

State financing policies. The State's total outstanding debt is now in the neighborhood of \$1 billion. Debt service costs, the periodic amounts required to pay principal and interest to bondholders, have nearly tripled from \$35 million in fiscal year 1970-71 to \$92 million in the current fiscal year. By fiscal year 1980-81, the Department of Budget and Finance estimates that debt service costs will increase to \$163 million.

These indicators of the magnitude of the State's debt clearly call for prudence and restraint in authorizing new capital investments which require financing through the issuance of general obligation bonds. We are all well aware of the fiscal problems which befell New York City last year -- problems attributable to a significant extent on that city's excessive borrowing policies. The State of Hawaii currently enjoys a favorable reputation in the municipal bond market. However, that can be readily eroded if the State's debt gets out of hand. We are determined that that possibility does not occur. It is your Committee's belief that fiscal restraint be exercised now to limit the growth of the State's debt and the associated debt service costs.

Your Committee has taken the necessary first step in this direction.

Your Committee has carefully reviewed all new capital investment proposals, and in developing the appropriations in this bill, it has done so under a self-imposed general obligation bond limitation of \$150 million. The resultant total appropriations in this and other bills now under consideration by your Committee requiring general obligation financing are intended to fall within that self-imposed limitation. The \$150 million limitation was selected because it generally represents the prudent level of general obligation bonds that the State can float in a year.

Over the near term, the financial outlook is such that the State can apply some cash financing for capital investment, and it is expected that in the next fiscal year, some \$20 million in general fund cash will be allocated to capital expenditures.

Beyond these immediate measures of restraint in authorizing new borrowings and

substitution of cash for borrowing where possible, it is clear that more analysis needs to be done in the area of financial policies and management. Among the issues which should be examined are the economics of pay-as-you-go (i.e., cash) vs. pay-as-you-use (i.e., borrowing) policies; the effects of debt management on cash management and vice versa; the debt service capacity of the State; the effects on short-term investments when general fund cash is advanced for capital expenditures; the increasingly large pool of authorized but unissued debt; and looking ahead to the possible call of a Constitutional Convention, what principles might guide changes to the existing constitutional provisions governing the debt limit and the authorization and issuance of debt. These issues might well be examined during the interim.

#### SUPPLEMENTAL BUDGET CONCERNS AND FOCUS

Act 195, Session Laws of Hawaii 1975, generally provided adequate funds to meet the financial needs of the State for the fiscal biennium 1975-77. However, there were certain areas where budgetary adjustments or supplementation are required to meet changing needs and circumstances anticipated during the second half of the biennium.

It is to address these needs and concerns that this bill has been formulated. Your Committee believes that the appropriations herein provided are proper and meritorious and that they reflect the Legislature's concerns for the social and economic well-being of Hawaii.

Highlights of the provisions of this bill follows:

#### 1. Economic Development

a. Tourism. Your Committee suggests several program adjustments intended to maintain the long range quality of the tourism industry. In conjunction with the increased tax on transient accommodations proposed by the Senate, these changes make up a coherent strategy for dealing with tourism in the future. A 10-year growth plan for the tourism industry has been funded. In addition, a permanent staff of three persons has been included within the Executive branch to conduct continuing research and planning for tourism. A provision has been made to assure maximum coordination between these new research activities and the ongoing research within the Hawaii Visitor's Bureau.

b. Loans to Businesses and Farms. A total of \$4,500,000 has been included to provide additional funds to three different loan programs: the Capital Loan Program, the State Farm Loan Program, and the New Farm Loan Program. These funds will help provide much-needed capital to Hawaii's small businesses and farming enterprises.

c. Agriculture. Diversified agriculture has long been a major goal of the State. Your Committee has provided funds to support various programs and activities in furtherance of this goal. Particular attention have been placed on aiding the cattle industry and the growing, processing and marketing of papaya, avocado and banana.

d. Aquaculture and Mariculture. Hawaii, as an island state, is confronted with a tremendous potential for growth in ocean-related economic activities. That potential has not been realized to the full extent possible. Your Committee believes that a far-sighted commitment should be made now so that the potential may be realized in the future. Accordingly, we have provided funds for the support of mullet and shellfish (particularly oyster) development which may lead to new industries for the State in these two products.

In addition to being a possible food fish, the mullet development may also lead to it becoming available as a bait fish for the local tuna fishing industry.

Your Committee has also provided funds for an economic assessment of aquaculture and a master plan for the development of the areas of greatest potential.

#### 2. Health

a. Services for the Developmentally Disabled. It is a matter of great legislative concern to not only maintain but upgrade and improve services for the developmentally disabled. Consequently, we are in support of the need to upgrade the Department of Health's inpatient facilities, treatment, and community-based services for the developmentally disabled.

As a first step in this direction, your Committee has increased the staffing of Waimano Training School and Hospital towards meeting the accreditation standards by the Joint Commission on Accreditation of Hospitals to be eligible to qualify for federal

contributions available under Title XIX of the Social Security Act for ICF MR care. It is the intent of your Committee to continue to support the decentralization of Waimano by providing the required resources to maintain and improve community-based programs on a State-wide basis.

In order to prevent or minimize the effects of developmental disabilities, your Committee fully recognizes the necessity of strengthening the prevention, early identification, evaluation, and treatment program in this area and have, therefore, increased the staffing for these programs on a State-wide basis. We have also appropriated sufficient funds to the Genetic Laboratory at Children's Hospital.

b. School Health Services. We have appropriated the required funds to provide health services for all public elementary schools in the State by the end of the 1975-77 biennium, fulfilling the original intent of the School Health Pilot Project and establishing the necessary services for prevention and detection of sensory deficiencies.

c. State Health Planning. Your Committee realizes the implications of the recent waiver by the Secretary of the U.S. Department of Health, Education and Welfare which granted to the State of Hawaii the authority to implement the provisions of P.L. 93-641. Therefore, we have provided sufficient funds under separate legislation to the State Health Planning and Development Agency, administratively assigned to the Department of Health for such implementation.

d. Environmental Health. With respect to Hawaii's drinking water, we have provided the required resources to initiate an expanded drinking water program inclusive of surface as well as underground water controls. Federal funds are available from P.L. 93-523, the federal "Safe Drinking Water Act" for this purpose.

### 3. Social Problems

The rapidly changing world we live in and the imperfect economic and social structure we are subject to, create a growing number and variety of social problems for all segments of Hawaii's population. Ranging from family and group discord to an inability to obtain the very necessities of life, these problems pose a threat to Hawaii's tradition of being a state-community -- a concept vital in making Hawaii a better place to live and grow in.

However, these social problems also represent a fact of life in Hawaii. A fact of life the legislature is painfully aware of and committed to forcefully addressing. To this end, decisive action to alleviate social ills constitutes an integral part of the legislature's social programs.

a. Welfare Payments. The Department of Social Services and Housing is plagued by high error rates both in determining eligibility of welfare claimants and in calculating welfare payments to DSSH clients. This continues to be a major problem and unless corrected will jeopardize receipt of federal funds. Already, annual federal fines due to errors threaten to exceed DSSH's entire supplemental request.

The high error rates stem directly from the high case-load assigned to each line case-worker. Your Committee has provided positions and funds to correct this problem.

b. Housing. The Hawaii Housing Authority's sole request is an appropriation to supplement their Development Revolving Fund. The DRF lends "start-up" money to non-profit private corporations for the purpose of planning, designing, studying and initiating low-cost housing projects.

Your Committee finds that the Development Revolving Fund enables low-cost housing projects to be constructed; and the supplementary request merely accounts for the inflated costs of initiating present construction. Your Committee has provided the supplementary funds needed for this purpose.

c. Elderly. Particular attention was paid by your Committee to the needs of the elderly in our community. Separate legislation is presently under consideration to establish an Executive Office on Aging which will develop, promote and coordinate programs for the elderly.

We are fully aware of the contributions and sacrifices made by the older generation in laying the economic and social foundation for modern-day Hawaii. Your Committee recognizes that the elderly have special problems and concerns -- in health, education, transportation, nutrition, social relations and other areas -- and we have provided funds

for various programs in these areas.

#### 4. Education

a. Teacher Evaluation. One of the concerns of your Committee is the establishment of a teacher evaluation program. To fulfill this interest, your Committee has provided funds to field-test two programs, the computer-assisted Pacific Learning Center Program and the revised Performance Improvement Program. It is a matter of great legislative concern that our children receive the best possible education available from teachers who are both qualified and committed. The development of a meaningful teacher evaluation program will help promote this objective.

b. Special Education Summer School. Your Committee is aware of giving special education students the opportunity to participate in summer educational programs which is vital to the maintenance of achievement levels and to advancement. Your Committee has appropriated funds to establish such a program and stipulated that tuition fees to be equal to that of regular education students.

c. Instructional Equipment. Your Committee is concerned with the critical shortage of instructional equipment, which is necessary in successful educational programs. Funds for educational equipment has been included in the appropriations.

d. Reading, Writing and Arithmetic. Your Committee is as gravely concerned as the community with the alarming number of school children that are falling below minimum competence levels in reading, writing and arithmetic tests. Your Committee has deferred legislative action, however, because of the assurances given the Superintendent of Education that concentrated in-house efforts will be undertaken to improve the situation. Your Committee requests that the Superintendent of Education report fully to the 1977 Legislature on his programs and recommendations to correct this problem area.

e. Learning Disabled Children. Your Committee is concerned about the educational needs of the estimated eight percent of Hawaii's school age population with learning disabilities. We have accordingly appropriated funds for a one year pilot project to provide comprehensive services for such children. The Department of Education is requested to submit an evaluation report of the pilot project and the feasibility of its continuance -- including considerations of scope, cost and target population -- to the legislature twenty days prior to the convening of the next regular session after the completion of the project.

#### 5. Culture and Recreation

a. Public Television. Your Committee recognizes the valuable service provided by the Hawaii Public Television program and has appropriated funds to provide for improvement and expansion of the program. These funds will be utilized to replace existing transmitter facilities, extend broadcast time by two hours per day and continue the production of the series "Rice and Roses".

Although your Committee finds merit in the concept of establishing a Public Radio program, it is believed that this item should be deferred for consideration during the upcoming 1977-79 biennial budget.

#### 6. Individual Rights

a. Public Utilities. Your Committee is concerned with the increased complexities in the area of regulating public utilities. The Legislative Auditor, in his report on the Public Utilities Division of the Department of Regulatory Agencies, noted several deficiencies on the organization and staffing of the Division. The report also pointed out areas of conflict between the Public Utilities Division and the Public Utilities Commission. Included in the Auditor's recommendations to correct these deficiencies and conflicts were those to provide additional staff for both bodies. This Legislature is presently considering legislation for the establishment of a full-time Public Utilities Commission with permanent staffing. To complement this action, supplemental funds and positions have been appropriated which is intended to provide the Public Utilities Division with the necessary resources to adequately represent the consumer in matters relating to public utilities.

b. Legal Aid Society. Your Committee has provided funds to the Legal Aid Society to supplement federal and other funds with the proviso that in the event additional non-State funds become available (other than funds for special projects or programs) the State funds will be correspondingly reduced. The State funds thus provided should be adequate to maintain the level of legal services being provided to the poorer members of our society. It is our understanding that the Legal Aid Society plans to expand its

outreach services and also to provide special legal assistance to the elderly.

7. Government-Wide Support

a. Elections. In order to comply with Federal law requiring the provision of ballots and other election materials in other languages than English for the convenience of minority group voters, your Committee has approved the supplemental appropriation for the Lieutenant Governor's Office for this purpose.

b. Overall State Planning. Your Committee recognizes the need for continued overall State planning: the \$250,000 appropriated by the last legislature for preparation of a new State Plan has been supplemented by additional funds to ensure that resources are adequate to complete this important undertaking. \$200,000 has been included to match federal funds available under the State's Comprehensive Planning Program. Finally, the Windward Oahu region has been targeted as an area especially in need of a regional plan, and funds are included for this purpose.

c. Legal Services. Your Committee is concerned with maintaining high standards of legal services available to the State. The increase in the number and complexity of litigation involving the State necessitates providing the Office of the Attorney General with supplemental appropriations to expand and upgrade services provided. These funds are intended for hiring additional attorneys, pay increases to enable the Attorney General to retain trained attorneys and providing additional funds for litigation expense.

d. Security of the Capitol Complex. Due to the increase in the scope of problems related to providing security services at the State Capitol, for the Governor and Lieutenant Governor, and for the Judiciary (particularly during criminal trials), we have provided the Attorney General with additional funds and positions.

e. Personnel Services. Your Committee is in accord with the supplemental appropriation request of the Department of Personnel Services. These funds have been appropriated with the understanding that services in the area of recruitment, training classification and collective bargaining support will be upgraded to provide timely support to other State agencies.

f. Taxation. The effective and equitable administration of the tax laws is a prime requirement for public confidence in the governmental process. Your Committee is aware of the administrative problems in the Department of Taxation. We are encouraged by the efforts being made by the Department to correct these problems. Your Committee has provided funds to upgrade and modernize the operations of the Department.

RECOMMENDATION

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2100-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2100-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 649-76      Ways and Means on H.B. No. 2001-76

The purpose of this bill is to provide supplemental appropriations to the Judiciary.

Your Committee has amended the bill by providing appropriations for five law clerk positions for the Supreme Court, which funds, however, are intended to be restricted for use contingent upon the enactment of legislation enabling the hiring of the law clerks.

The bill has been further amended to include \$5,000 to the Administrative Director for the publication and distribution of a revised handbook of small claims court information for public use.

Your Committee has further provided \$101,000 for personnel costs of the Judiciary relating to annual increments pursuant to Act 164 of 1975.

The bill has been amended to reflect a 25 per cent general reduction for new positions, to maintain stability in fiscal matters.

Your Committee has added a section to the bill providing that the Chief Justice may spend up to \$25,000 realized from internal savings to implement the purposes of the Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal



Proceedings. Your Committee feels that this purpose may be served without additional appropriations.

Your Committee has, in addition, provided for an account clerk III position in the Fifth Circuit Court, Lihue, Kauai.

The 1976-77 capital improvements projects request for appropriations has been deferred by your Committee for future consideration.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2001-76, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2001-76, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 650-76 Ways and Means on H.B. No. 1998-76

The purpose of this bill is to appropriate moneys out of the general revenues of the State for the payment of certain tax refunds, judgments and settlements, and other miscellaneous claims against the State.

Your Committee has amended this bill by deleting certain real property tax refund claims which we find are unsubstantiated.

Your Committee has amended the bill on page 2 as it pertains to the Allen claim by adding attorney fees and costs, which were inadvertently omitted, in the amounts of \$150 and \$109.22, respectively, which in turn required amendment of the claim total to \$1,037.47.

As amended by your Committee, this bill appropriates moneys for individual claims for legislative relief pursuant to section 37-77 and chapter 662, Hawaii Revised Statutes. Your Committee recommends the payment of these individual claims be authorized by the Legislature. Your Committee is aware of other claims, but is awaiting justification thereof.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1998-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1998-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 651-76 Ways and Means on H.B. No. 2691-76

The purpose of this bill is to enable the University of Hawaii to provide for the specialized education and training of workers and leaders of the trade unions to improve their professional competence.

The Center for Labor-Management Education at the University of Hawaii is re-designated as the Center for Labor Education and Research. The Center shall (1) provide labor education instruction, labor-related research, and educational services for workers and their organizations; (2) provide labor-related education to the public; (3) advise and assist in the development and implementation of labor-related instructional programs, courses, and activities for use within the Department of Education; including teacher preparation therefor; (4) advise and assist in the development and implementation of labor studies degree programs in the University of Hawaii system; and (5) be the clearinghouse for labor education matters in the State.

Your Committee has reduced the appropriation to \$1 and made technical amendments to the bill for purposes of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2691-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. 2691-76, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 652-76 Ways and Means on H.B. No. 3299-76

The purpose of this bill is to amend chapter 209, Hawaii Revised Statutes, essentially to provide for:

1. Personal loans up to a maximum of \$5,000 to be made to disaster victims;
2. Increasing the interest rate for loans from 4 per cent to 6 per cent a year; and
3. Establishing a State Disaster Revolving Loan Fund in support of chapter 209.

Your Committee has amended the bill to appropriate \$1 to the disaster revolving fund established by the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3299-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3299-76, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 653-76      Ways and Means on H.B. No. 639

The purpose of this bill is to ensure the continuing availability of needed services for the retarded currently rendered by the Hilo Day Activity Center for the Adult Retarded by having the State assume its ownership, and incorporating its administration and operation into the State Department of Health's community program.

Your Committee has amended this bill by adding an appropriation of \$1 for the fiscal year 1976-77. Your Committee has also changed 1975 dates to 1976 dates to reflect passage of this bill in 1976.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 639, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 639, H.D. 1, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 654-76      Ways and Means on H.B. No. 2359-76

The purpose of this bill is to make members of the Public Utilities Commission full-time employees of the State. The bill also provides for commission staffing, including the appointment of a public utilities commission assistant on Kauai, Maui, and Hawaii, transferring jurisdiction of the Commission to the Department of Budget and Finance for administrative purposes only, submission of annual reports, appointment of hearings officers and the designation of the Director of Regulatory Agencies to bring matters before the Commission.

Your Committee has found that because of the heavy workload demands undertaken by the Public Utilities Commission, the present part-time commission should be changed to a full-time body. Since Statehood was achieved in 1959, the responsibilities of the Public Utilities Commission in regulating public utilities as gas, electric, telephone, sewage, and transportation companies have increased at a tremendous rate. The Commission's responsibilities include the full spectrum of regulatory matters including accounting practices, safety, rate-making, financing, certification, and adequacy of services provided. Moreover, the matters which come before the Commission, especially in rate-making proceedings, are often extremely complex and involve questions dealing with various fields of knowledge such as accounting, engineering, government, financing, and law. In addition, because of the nature of its responsibilities, the decisions made by the Commission can have a significant impact on the community.

Based on a comparison of the 50 states, 44 states have full-time commissions while only six states have part-time commissions. As to the number of commissioners, 37 states have three-member commissions which is the number provided in this bill.

This bill provides for six-year terms which is consistent with the position taken by 34 other states. This should attract a broad base of candidates who might wish to be considered for appointment to the Commission. Because of the complexities of the regulatory process, this will also give the commissioners more time to fully understand the many facets of public utility regulation. It also removes the two-term eight consecutive year limitation and provides that in lieu thereof no member shall serve more than 12 consecutive years. This is necessary to permit a commission member to serve two complete six-year terms.

In order to achieve staggering of terms, the terms of the first full-time commissioners have been set at two, four, and six years.

Because of the complexities of the regulatory process, your Committee has broadened the general qualifications for commissioners.

Your Committee amended section 269-2 by adding the word "government" to the list of experience required for appointment to the Commission. The governor then is directed to appoint persons with experience in accounting, business, engineering, government, finance, law, or other similar fields.

Salaries of Commission members have been tied to the salary level of circuit court judges, with the chairman receiving a salary equivalent to the pay of a circuit court judge and the other Commission members receiving 95 per cent of the chairman's salary.

Your Committee firmly believes that the Commission should have its own independent staff under its direct supervision. Such staff should have the expertise and experience necessary and essential to cope with the very large and complex tasks of regulating public utilities, to facilitate decision-making in the public utilities field, and to handle other filing and administrative functions.

Subsection (b) of Section 269-3 has been amended to permit the Chairman of the Public Utilities Commission to appoint a person who shall be designated a public utilities commission assistant in each county with a population less than 100,000. The assistant must reside in the county to which appointed. The assistant will be responsible for receiving complaints from consumers and meeting with the public utilities in the respective counties to attempt to resolve such complaints. He will report directly to the Commission. The Chairman of the Commission can also appoint the assistant to carry out certain investigative functions for the Commission.

Because of a possible ambiguity in the present law, a provision was added to Section 269-3 which would permit the commissioners to consult with their staff in any contested case. The staff would be prohibited from consulting with any parties in a proceeding except upon notice and opportunity for all parties to participate, a practice which the Commission itself is already required to follow under Section 269-3.

An amendment to Section 269-5 now requires a more detailed and extensive annual reporting system to the governor on all public utility matters. The Commission is also required to establish and maintain a register of all its orders and decisions which shall be open and readily available for public inspection.

Section 269-6 has been amended to permit the appointment of one of the Commission members as a hearings officer to hold hearings basically on all matters except rate proceedings and other matters relating to tariffs filed by the public utilities.

Section 269-15 has been amended to permit the Commission to institute proceedings on its own motion to enforce the requirements of Chapter 269. The Commission is also given the authority to direct the Director of Regulatory Agencies to appear in any proceedings before the Commission. Specific references to examining matters which may fall within the jurisdiction of the Federal Interstate Commerce Commission have been deleted and broader language has been substituted in its place. Your Committee has further amended this section to add back jurisdiction over safety and security matters which the Commission will still retain.

In keeping with the view that the functions of the Public Utilities Commission be kept separate from that of the Public Utilities Division, for administrative purposes only, the Public Utilities Commission should be relocated to an appropriate existing department other than the Department of Regulatory Agencies which presently houses both the Public Utilities Commission and the Public Utilities Division.

The Department which seems to be best fitted to have jurisdiction over the Commission is the Department of Budget and Finance. Accordingly, amendments now provide that the Commission shall be placed within the department for administrative purposes only. To insure the Commission's independence, Section 26-8 has been amended.

As part of the transfer of jurisdiction to the Department of Budget and Finance, Section 26-9, relating to the jurisdiction of the Department of Regulatory Agencies, has been amended to delete the Public Utilities Commission.

In order to provide for an orderly transition from the present Commission to the full-time Commission, the new Commission is granted the authority to appoint commissioners who were serving prior to the effective date of the Act as hearing officer(s) to continue to hear cases which were filed prior to the effective date of the Act. The hearing officer would submit a recommended decision to the new Commission for its approval.

Your Committee has appropriated the sum of \$1 for the operation of the Commission and its staff. In addition, the Director of Regulatory Agencies is transferring the sum of \$94,305 and one position to the Public Utilities Commission as newly constituted. These transferred funds represent amounts contained in Act 175, Session Laws of Hawaii 1975, which were budgeted for use by the present Public Utilities Commission. Since the new Commission will be placed in the Department of Budget and Finance, this authorization for transfer is necessary.

The sum appropriated will fund three full-time commissioners and 13 staff members including public utilities commission assistant in each of the neighbor island counties.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2359-76, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2359-76, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Henderson.

SCRep. 655-76      Ways and Means on H.B. No. 62

The purpose of this bill is to improve the coordination and delivery of programs and services to the elderly in Hawaii at both the state and county levels.

Your Committee finds that much of the dissatisfaction and problems associated with the current delivery of programs and services to the elderly are attributable to the fragmented fashion in which projects have been established, funded, and operated. The report "Comprehensive Master Plan for the Elderly", of December 15, 1974, noted that "the examination of current service delivery capabilities in Hawaii for service programs for the elderly presents a picture of a system operating in contradiction to itself. In the jargon of the analyst, there is no comprehensive, coordinated, and integrated delivery system for the elderly. There are a number of competing public agencies that have more finite managerial control over the development and implementation of service programs that impact on the elderly than either the commission on aging or local area agencies despite the latter's mandate for informal clearance and review of all elderly program matters. This condition deprives the State of any effective administrative and planning function that could effectively integrate service delivery functions."

Your Committee believes that the goal of strengthening programs and services for the elderly can be markedly enhanced by establishing an executive office on aging within the office of the governor and making the director of the executive office on aging the principal official in state government solely responsible for the conduct, development, and control of programs, policies, and activities on behalf of the elderly.

Your Committee has amended the bill to reaffirm and restate the dedication of the State to provide equitably for the elderly in Hawaii.

The bill has been further amended by setting the salary of the director of the executive office on aging to be equivalent to the salary of departmental second deputies in order to be consistent with the salary schedule enacted in 1975.

The director has been given the power to grant services as well as to contract for services necessary to achieve the intent of the bill.

The deputy director position has been deleted by your Committee, in that your Committee feels that such a position is not warranted in the early stages of the office. Moreover, duties proposed for the deputy director can be adequately handled within otherwise available resources, without the establishment of this additional position.

The bill has been amended to eliminate the requirement of final legislative approval for the state master plan for the elderly, in that the Comprehensive Master Plan for the Elderly has been previously approved by the Legislature.

The policy councils which the counties are required to establish have been given the additional function of approving grants, in addition to budgets, plans, and applications for and acceptance of grants, which the bill already provided.

A further amendment to the bill has been made to clarify its intent to allow discretionary action by the county mayors in encouraging the formation of elder service corporations. For consistency, the provisions relating to the role of elder service corporations has been deleted, so that the counties can exercise discretion in best meeting the needs of elderly persons within their respective jurisdictions.

The bill has been further clarified to include the transfer of appropriations of the commission on aging to the executive office on aging.

Your Committee finds that there are presently 5 persons employed for purposes of the commission on aging. In addition, 6 employees of the office of the governor have been assigned, and are on loan, to the commission on aging, and function solely for that purpose. Accordingly, your Committee has amended the bill to transfer the 6 employees and the appropriations relating to those positions to the executive office on aging proposed by this bill.

A total staff of twenty-two was requested for the executive office on aging. Your Committee feels, however, that maintenance of the existing level of 11 employees, with the addition of an accountant, bringing the total to 12 employees, is sufficient staffing until the office becomes fully operational.

Your Committee has deleted sections 3, 4, and 5 of the bill and has added an appropriations clause to the bill to appropriate \$1.

Other style and technical amendments have been made.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 62, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 62, H.D. 1, S.D. 3.

Signed by all members of the Committee.

SCRep. 656-76 (Majority) Ways and Means on H.B. No. 100

The purpose of this bill is to provide a mechanism by which the State can work with the visitor industry in coordinating and implementing policies to achieve desired goals and objectives by establishing an office of tourism headed by a single director appointed by the Governor.

Your Committee notes that the visitor industry is a major component of the economic base of our State and makes a significant contribution to income and employment within our community. Over the past 10 years, tourism has replaced agriculture as the State's number one industry. Thus, your Committee feels that we are entering a period when the need for participation in establishing guidelines for orderly future growth is recognized by all levels of government and segments of the industry. Your Committee feels that this bill is aptly addressed to this issue.

Your Committee has amended the bill by adding an appropriation of \$1.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 100, H.D. 1, S.D. 2, as amended herein, and recommends that it be placed on the calendar for Third Reading in the form attached hereto as H.B. No. 100, H.D. 1, S.D. 3.

Signed by all members of the Committee.

Senators King, Anderson and Soares did not concur.

SCRep. 657-76 Ways and Means on H.B. No. 2987-76

The purpose of this bill is to appropriate or authorize, as the case may be, moneys to fund all collective bargaining cost items in the contracts negotiated with the bargaining representatives of eleven bargaining units, and the salary increases and other adjustments for the excluded employees.

Your Committee is recommending this bill for passage with amendments indicating token amounts of \$2. The intent is to meet the necessary procedural requirements for readings of this bill. It is expected that the appropriations necessary to meet the negotiated cost items will be added before final passage of this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2987-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2987-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 658-76 (Majority) Ways and Means on H.B. No. 83

The purpose of this bill is to improve the coordination and development of the state

agriculture programs by creating a position of assistant to the governor for agriculture in the office of the governor and including in the agricultural coordinating committee, two persons from the public.

Your Committee has amended the bill to replace the two members of the public with two farmers, one to be a representative of the Hawaii Farm Bureau.

Your Committee has, in addition, added a \$1 appropriation to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 83, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 83, H.D. 1, S.D. 3.

Signed by all members of the Committee.

Senators Anderson, Henderson and Soares did not concur.

SCRep. 659-76      Ways and Means on H.B. No. 3261-76

The purpose of this bill is to provide much needed support and impetus for the development of the papaya, anthurium, and ornamental foliage industries.

Your Committee finds that the papaya, anthurium, and ornamental industries contribute significantly to Hawaii's economic stability and hold great potential for further development as elements of diversified agriculture. For example, the papaya industry promises the greatest growth potential in utilizing land, creating jobs, and improving the state exportimport balance, with projected sales of \$15.6 million by 1980. Moreover, the anthurium industry has displayed a steady growth potential with 80 per cent of the anthuriums marked for export to the mainland and foreign countries. The ornamental industry also displays an economic potential for expansion in Hawaii for export market. Therefore, your Committee feels that continued support of programs designed to enhance the growth and development of diversified agriculture constitutes a priority item in state spending.

Your Committee has amended the appropriations and allocations in the bill to \$5 for the papaya industry, \$1 for the anthurium and cut flowers industry, and \$1 for the ornamental foliage industry.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3261-76, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3261-76, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 660-76      Ways and Means on H.B. No. 513

The purpose of this bill is to require the office of the legislative reference bureau to maintain a compilation of all rules of state and county agencies and to determine if rules or amendments of the state agency rules violate the substantive law under which they were adopted and to report to the legislature thereon.

Your Committee finds that nationally there is a move among state legislatures to gain legislative oversight concerning executive rule making based upon laws enacted by legislatures. In many instances the legislature enacts a general statute and expects the specifics to be filled in by the executive branch. In filling in these specifics, the substance of the statute passed by the legislature may be contravened. This is true in Hawaii as it is in many other states in the nation. If the executive branch adopts rules contrary to statute, it usurps the policy-making function of the legislature; however, if the legislature is not informed of such usurpation, remedial action cannot be taken. Legislative oversight may be provided through this bill by requiring the office of the legislative reference bureau to scrutinize executive rules to determine if they violate the substantive law under which they are adopted.

Your Committee finds that there are presently on file at least 7,000 pages of active rules in the office of the lieutenant governor. In addition, probably 1,000 pages are filed every year consisting of amendments and new rules. In order to perform the scrutiny involved in determining if yearly rule filings violate substantive law, much less to scrutinize all existing rules, a job of this magnitude will require additional staffing for the office of the legislative reference bureau. It is estimated that at least one full-time, experienced attorney assisted by a lesser experienced attorney would fulfill the needs in this area. Your Committee has therefore amended this bill to provide an appropriation of \$30,000 for such additional staff.

In addition, your Committee has amended the effective date from upon approval to July 1, 1976. This amendment is necessary so that the office of the legislative reference bureau has necessary time to arrange for filing these rules and so that state and county agencies may make arrangements for filing a compilation of existing rules and necessary copies of new rules. The definite date is also necessary, since upon this bill's taking effect, executive rules will not be valid until filed with the office of the legislative reference bureau as well as with the office of the lieutenant governor as is now required.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 513, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 513, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 661-76 (Joint) Ecology, Environment and Recreation and Economic Development on H.B. No. 2880-76

The purpose of this bill is to "promote the optimal use of solid wastes through programs of waste prevention, energy resource recovery, and recycling so that all our wastes become utilized." It does this by adding that language to Chapter 344, Hawaii Revised Statutes.

Your Committees find that it would be advantageous to add these guidelines to Chapter 344, HRS, the State Environmental Policy Act, in order to encourage individuals, government agencies, and private industry to make better use of our existing resources by developing and implementing programs and activities in the area of solid waste recycling.

Your Committees on Ecology, Environment and Recreation and Economic Development are in accord with the intent and purpose of H.B. No. 2880-76 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senator Yamasaki.

SCRep. 662-76 Economic Development on H.B. No. 3262-76

The purpose of this bill, as amended, is to amend the law relating to the Land Use Commission by adding a new section to Section 205, Hawaii Revised Statutes, which will specify permissible uses within an agricultural district, and by amending Section 205-12 relating to enforcement and Section 205-13 relating to penalties.

Your Committee finds that agricultural subdivisions approved by the counties are being put to uses other than agricultural uses. The purpose of the agricultural district classification is to control the uses of the land for agricultural purposes. This purpose is being frustrated by the development of urban type residential communities in the guise of agricultural subdivisions. To discourage abuse of this purpose, the bill, as amended, more clearly defines the uses permitted within the agricultural district. Except for such uses permitted under special use permits in Section 205-6, and for nonconforming uses permitted in Section 205-8, uses not permitted by this bill shall be prohibited. For lands within the agricultural district with soil classified by the Land Study Bureau as class A or B, the bill prohibits the counties from approving any agricultural subdivision unless the land within the subdivision shall be made subject to the restriction on uses and to the condition that the uses shall be primarily in pursuit of an agricultural activity. The restriction on uses and condition aforesaid shall be expressly contained in the instruments of conveyance and shall be encumbrances running with the land which shall automatically terminate upon reclassification of the land to a land use district other than agricultural district.

Your Committee, after lengthy consideration, has amended the bill by requiring that lands classified as class A or B by the Land Study Bureau shall be restricted to agricultural activities.

Your Committee has further amended the bill by adding a provision for a waiver of the requirement of deed restrictions in situations where mortgage financing is jeopardized. Your Committee believes that such restrictions should not impose a hardship on persons requiring mortgage financing to effectuate agricultural pursuits. A listing of qualified mortgage lending agencies is set forth.

Your Committee has further amended the bill to take care of situations where a parcel of land may contain a mixture of soil classified as class A, B, C, D, E, or U. In such instances, your Committee believes that, if the parcel contains less than 300 acres and at least 51% of the area of such parcel has soil classified as class C, D, E, or U, then

the parcel shall be subject to the specified permitted uses set forth in Section 205-5(b), and shall be exempt from the provisions of subsection (b) of the bill. If, however, at least 51% of the area of such parcel has soil classified as class A or B, then the parcel shall be subject to all provisions of subsections (a) and (b) of the bill.

The bill also provides that the penalty for a violation of the restriction on uses and condition aforesaid shall be a fine of not more than \$5,000. Your Committee has amended the bill to provide an additional penalty for any violation which continues to exist six months after its initial citation. Moreover, your Committee has further amended the bill to provide that, prior to the issuance of any citation for a violation, the enforcement officer shall notify the violator and the mortgagee, if any, of such violation, and the violator or mortgagee, if any, shall have 60 days within which to correct the violation without penalty.

Your Committee has made minor changes in wording for purposes of style and clarity.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 3262-76, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3262-76, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 663-76 Housing and Hawaiian Homes on H.B. No. 2253-76

The purpose of this bill is to make several amendments to chapters 516 and 519, Hawaii Revised Statutes, to facilitate the ability of residential lessees to purchase the fee simple interest in their houselots through the Hawaii Housing Authority, and to clarify the coverage of state law relating to the renegotiation of lease rents.

Your Committee has made minor wording changes to this bill. It has also made six substantive amendments to the bill:

1. The "owner's basis" formula has been amended to provide that the fair market value of land will be established on the basis that the lot under appraisal is part of an unsubdivided and undeveloped tract, and to provide for a discount of twenty-five per cent for overhead and profit in establishing the current replacement cost of offsite improvements.

2. Necessary steps to be taken by the Hawaii Housing Authority prior to acquisition of development tracts have been clarified.

Your Committee has made this amendment for greater convenience of administration, and the change meets the intent and purpose of H.B. No. 2255-76, H.D. 1, which has also been referred to your Committee.

3. The "buy-back" provision has been amended to ensure that former lessees are equitably compensated if circumstances should require the H.H.A. to purchase their residential lot and improvements.

4. Compensation for houselots acquired under this chapter has been established as the greater of the owner's basis formula, or the sum of the future rental income stream and the reversionary interest of the lessor, discounted at four per cent and calculated for the period of fixed rent remaining on the lease.

5. The coverage of section 519-2, Hawaii Revised Statutes, has been restated to exclude leasehold condominiums by amending subsection (a). Your Committee has made this amendment, in view of the fact that this section was only intended to cover single-family residential houselots.

6. Provisions regarding arbitration have been clarified by the addition of a new part.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 2253-76, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2253-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Nishimura, Yim and Anderson.



SCRep. 664-76      Judiciary on H.B. No. 2130-76

The purpose of this bill is to amend Chapter 521, Hawaii Revised Statutes, Hawaii's Residential Landlord-Tenant Code.

Your Committee on Judiciary concurs with the findings of your Committee on Consumer Protection in Standing Committee Report No. 510-76.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2130-76, H.D. 1, S.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator F. Wong.

SCRep. 665-76      Judiciary on H.B. No. 2984-76

The purpose of this bill is to amend the Horizontal Property Act in matters relating to (1) blanket mortgages affecting apartments, (2) changes in building plans, and (3) cancellation rights of purchasers.

The bill amends the following Sections of Chapter 514, Hawaii Revised Statutes:

(1) Section 514-16. This Section has been amended to clarify that a blanket mortgage or lien must be released only upon the first conveyance by deed or lease to a purchaser. Under existing law this Section could be interpreted to include the first conveyance from the landowner to the developer. Further, the amendment clarifies that blanket mortgages and liens must be satisfied of record only upon conveyance by deed or lease and that first sales of apartments may be by agreements of sale without obtaining releases of the blanket mortgages and liens. Your Committee is aware that many condominium projects are now being sold by agreement of sale and that requiring prior removal of the blanket mortgages and liens before an apartment is sold by an agreement of sale would make such sales financially impractical.

(2) Section 514-37. Presently this Section requires that any change in the condominium building plans for a project which requires the approval of the county officer having jurisdiction over issuance of building permits must be approved by the purchaser. Your Committee received testimony that, technically, any change may require such approval although the requirement is normally waived for minor changes. It is common knowledge that during the construction of a building, many minor changes are made which have no substantial effect on the building. This Section as presently worded could be interpreted as requiring the approval of the purchaser for every minor change and thereby impose an impossible burden on the developer. The bill amends this Section by requiring the purchaser's approval only when there are material changes in the building plans. The amendment conforms this Section to Section 514-42, Hawaii Revised Statutes, which requires that a supplementary public report be issued when the developer proposes to materially change a project.

(3) Section 514-39. Presently, this Section states that if the final report for a project is not issued within one year from the date of issuance of the preliminary report, each purchaser is entitled to refund of all moneys paid by him without further obligation. No cutoff date is established for the purchaser to exercise his option to a refund and as a result, a purchaser may receive a final report issued more than one year after the date of issuance of the preliminary report and later cancel the transaction. This can work a hardship on the developer as the exercise of the refund option may come many months after the final report was issued. Your Committee agrees that some cutoff date of a purchaser's right of refund should be established after issuance of a final report. As originally introduced, the cutoff date was upon receipt of the final report by the purchaser. Your Committee feels that the purchaser should have an opportunity to examine the final report before deciding whether or not to exercise his option to a refund, and therefore, the bill was amended in H.B. No. 2984-76, H.D. 1 to provide for a ten-day cancellation period.

Your Committee further recommends that this bill be amended by deleting the proviso in lines 15-20 on page 2 and inserting in lieu thereof:

"provided that if the final public report is issued after the one year period and the purchaser fails to notify the developer of his nonacceptance of the final report within 30 days after the delivery of the final report to the purchaser, the purchaser's right to refund shall be deemed waived."

Your Committee feels that 30 days is a reasonable time period.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2984-76, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form

attached hereto as H.B. No. 2984-76, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 666-76      Judiciary on H.B. No. 2131-76

The purpose of this bill is to allow property owners to have unattended vehicles towed away at the expense of the vehicle owner and to set maximum charges for such towing procedures.

Your Committee is in agreement that there is a need for protecting the rights of property owners from the inconsiderate and occasionally intentional practices of those motor vehicle operators who park in unauthorized areas. In the case of private home or apartment dwellers such parking abuses deprive the dwellers of their parking or entry rights and in the case of the commercial property owner such abuses may cause potential financial and operational problems.

Your Committee upon consideration of this bill recommends that it be amended to make it applicable only in counties with a population of 100,000 or more. In said counties, there will be no waiting period before an unattended vehicle may be towed away at the expense of the vehicle owner.

Your Committee also recommends that the bill be amended to create the offense of "criminal trespass" which will allow a police officer issuing the citation or arranging for the vehicle to be towed and the person requesting the towing of the vehicle not to be civilly liable for any action reasonably taken on the basis of a signed statement. Any person who commits the offense of criminal trespass as well as any person who wilfully makes a false statement to cause a police officer to issue a citation or arrange for the vehicle to be towed shall be guilty of a misdemeanor. This section shall not be applicable to any stolen vehicle.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2131-76, H.D. 1 and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2131-76, H.D. 1, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 667-76      Judiciary on H.B. No. 2299-76

The purpose of this bill is to clarify the intent of Section 507-49, Hawaii Revised Statutes, to deny lien rights only to contractors who are required to but not licensed under Chapter 444, Hawaii Revised Statutes, and not to deny lien rights to persons who are licensed under other appropriate laws.

Act 113, Session Laws of Hawaii 1974, amended Section 507-49, Hawaii Revised Statutes, to deny lien rights to contractors who are required to be licensed under Chapter 444, Hawaii Revised Statutes, but who are not so licensed. However, said Section as presently worded may be construed as to deny lien rights to persons who may meet the definition of general contractor under the laws dealing with lien rights (Chapter 507, Hawaii Revised Statutes), and who are not licensed under said Chapter 444 because they are exempt from the licensing requirement of said Chapter 444. One court has construed said Section 507-49 to deny lien rights to persons who may be general contractors as defined in Chapter 507, Hawaii Revised Statutes, and who are exempt from the licensing requirement of said Section 507-49; e.g. professional engineers and architects. This bill amends said Section 507-49 to clarify that lien rights are denied only to contractors required to but not licensed under said Chapter 444, and that lien rights are not denied to persons who may meet the definition of a general contractor under said Chapter 507 but who are exempt from the licensing requisite of said Chapter 444.

Your Committee recommends that this bill be amended for technical reasons without affecting the substantive provisions therein.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2299-76, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2299-76, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 668-76      Judiciary on H.B. No. 2782-76

The general purpose of this Act is to amend the law on campaign contributions and

expenditures to conform to the U.S. Supreme Court decision in Buckley v. Valeo, 44 U.S.L.W. 4127, on January 30, 1976, and to the Attorney General's Opinion 76-2 which discusses the applicability of said decision to the Hawaii Campaign Spending Law.

Because of the length of the bill, only the major substantive changes will be noted. The amendments are as follows:

1. Sections 11-191(1) and 11-210 Advertising

Your Committee recommends that the present law on advertising be retained to prevent deceptive political advertisements. Your Committee is concerned that the failure to require identification of the sponsor of a political advertisement may allow a candidate to publish a misleading political advertisement and attempt to attribute the sponsorship to his opponent.

2. Section 11-194(b)(8) Duties of the Chief Election Officer; Commission.

This subsection relating to the employment of personnel by the commission has been amended to clarify that the commission may independently retain its own legal counsel.

3. Section 11-203 Testimonial Affairs and Coffee Hours

Your Committee recommends that H.B. 2782-76, H.D. 1, be modified and that the existing restrictions on testimonial affairs be retained, but that the limit of each ticket be increased from \$15 to \$25 due to the general rise in prices. Your Committee finds that the original intent of this section was to prevent indiscriminate use of testimonial affairs and the hardship imposed upon the public in being pressured to purchase tickets to such affairs and making contributions they might not otherwise make, has been well served since its enactment. However, your Committee finds that the same reasons are not applicable to coffee hours and recommends that the provisions thereon be deleted.

4. Ballot Questions and Issues

Your Committee is aware that the Attorney General's Opinion 76-2 recommends that regulation of "ballot issue committees" be deleted. However, your Committee notes that the Buckley Case did not specifically address itself to this subject. The concern is that large contributions by individuals and businesses to ballot issue committees, without disclosure, will distort, unduly influence and may corrupt our electoral process. Therefore, the following sections have been retained in their present form:

- (a) Section 11-191 Definitions of "committee", "contribution", and "expenditure".
- (b) Section 11-197 Organizational reports.
- (c) Section 11-199 Campaign contributions, generally.
- (d) Section 11-200 Campaign contributions, restrictions against transfer.

Limitations on Contributions. Your Committee has considered the limiting of campaign contributions as a result of the Buckley Case striking campaign expenditure limitations, but feels that the matter will require greater study and possibly the integrating contribution limitations with a plan for public financing of campaigns, so as to encourage maximum public participation in the electoral process.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. 2782-76, H.D. 1, as hereby amended, and recommends that it pass Second Reading in the form attached hereto as H.B. 2782-76, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 669-76 Judiciary on H.B. No. 2932-76

The purpose of this bill is to provide for a minimum mandatory sentence for a repeat offender and deny the opportunity for parole or probation under circumstances of repeated offenses.

Your Committee recommends that the bill be amended as follows:

- (1) Delete Sections 1 through 6 of the bill.
- (2) Renumber Sections 7 and 8 as Sections 3 and 4.
- (3) Insert a new Section 1 which adds a new category of defendant who will be subject to an extended term of imprisonment. section 707-701, 707-710, 707-711, 707-720, 707-730, 707-731, 707-732, 707-733, 707-734, 707-735, 708-810, 708-840, 708-841, 708-851,

708-852, 710-1022, 710-1040, 712-1241, 712-1242, 712-1244(1)(d), 712-1245(1)(c), 712-1247(1)(c), (f) or (g) and has a prior conviction for the same offense in this or another jurisdiction is in this new category.

(4) Insert a new Section 2 which amends Section 706-669 by adding a new paragraph which provides that the minimum term of imprisonment for those persons who come within the category of persons convicted of certain crimes shall not be less than 3 years upon the second conviction of the same offense and 6 years upon the third conviction for the same offense.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2932-76, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2932-76, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Takitani.

SCRep. 670-76 Judiciary on H.B. No. 3196-76

The purpose of this bill is to amend Chapter 706, Hawaii Revised Statutes, Title 37, Hawaii Penal Code, by adding a new section relating to the commission or attempted commission of a felony with a firearm and the length of imprisonment for convicted defendants.

Your Committee recommends that the bill be amended in the following manner:

(1) Replace the existing Section 1 by a new Section 1. The new Section 1 amends Section 706-662, Hawaii Revised Statutes, by adding a new category of defendant who will be subject to an extended term of imprisonment under Section 706-661. Any person who is convicted of a felony offense and used or threatened to use a firearm while engaged in the commission of that felony.

(2) Delete the existing Sections 2 and 3 of the bill.

(3) Renumber Sections 4, 5 and 6 of the bill as Sections 2, 3 and 4 respectively.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3196-76, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3196-76, H.D. 2, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Takitani.

SCRep. 671-76 Judiciary on H.B. No. 2700-76

The purpose of this bill is to provide for a medical malpractice insurance system which will: (1) stabilize the cost of medical malpractice insurance and insure the availability of such insurance at a reasonable cost; (2) decrease the costs of the recovery system for medical malpractice and improve the efficiency of its procedures; (3) impose appropriate sanctions on errant health care providers; (4) provide and improve the machinery for resolving patient grievances against health care providers by the addition of lay members to the board of medical examiners, the hiring of additional staff for the board, increasing the reporting requirements to the board, and changing the method of appointments to the board.

Upon consideration of this measure, your Committee has made the following changes.

1. Reporting and Reviewing Requirements. Your Committee has omitted the requirement that plaintiff and defense attorneys report information to the insurance commissioner. The self-insured health care provider and the insurer will be required to submit all necessary information. This eliminates repetition of information and an interference in the attorney-client relationship.

2. Informed Consent. The board of medical examiners will have an opportunity to develop minimum standards for informed consent. Physicians who utilize minimum standards established by the board may introduce them as evidence of informed consent in a medical tort action. Your Committee feels that the task of developing standards for all treatment and surgical procedures is unrealistic in light of the continual improvement and changes in the practice of medicine and the broad base of the target group that must be reached. Your Committee, therefore, feels that minimum standards should be developed to be used only as guidelines for informal consent; as the health care providers rendering professional services are in a superior position to determine the amount and type of information that should be shared with the individual patient.

3. Selection of Medical Claims Conciliation Panel Members. Attorneys and physicians or surgeons appointed to serve on the medical claim conciliation panels will be selected from lists of twenty-five persons instead of fifteen persons. Your Committee has increased the lists in the interests of broadening the base of persons able to serve on the panel. In addition, attorneys will be selected from a list submitted by the supreme court of Hawaii instead of the Hawaii bar association; physicians will be selected from a list submitted by the board of medical examiners. Your Committee has determined that these bodies represent all persons serving in the professions involved more equitably than the professional organizations previously in the bill. It is your Committee's hope that retired supreme court judges will be appointed to serve as chairperson of these panels, whenever possible, to give the chair a tone of judicial temperament.

4. Costs Incurred by Medical Conciliation Panel. Expenses incurred by persons serving on the medical claim conciliation panels shall be paid by the department of regulatory agencies. Expenses incurred by consultants called by the panel shall be assessed equally among the parties involved. Your Committee has determined that these expenses should not be paid by the patients' compensation fund as previously set forth, as they will not all necessarily result in awards of more than \$100,000; the intent of the fund is to cover awards that exceed but do not include amounts up to \$100,000.

5. Mandatory Participation in the Patients' Compensation Fund. All insured or self-insured health care providers will be required to participate in the patients' compensation fund. Your Committee has determined that in order to protect all injured parties who receive a verdict award exceeding \$100,000, all health care providers must participate in the fund. Your Committee has also determined that it would be unequitable if some health care providers who originally chose not to join the fund were to benefit from lower annual surcharges once the fund was established and had been built up.

6. Defense of the Patients' Compensation Fund. Insurance policies for health care providers will include all defense costs for the insurance company and defense of the patients' compensation fund, notwithstanding the fact that the insurance company will be liable to pay only the first \$100,000 of the judgment or settlement. The insurance commissioner will have the power to contract with an attorney to take action in the name of the health care provider if this action is deemed necessary in the interests of protecting the fund. If the insurance company is found to have been acting in bad faith in its defense of the fund, the court may order all defense costs incurred against the fund to be paid by the insurance commissioner. If, in a case where the plaintiff has offered to settle a medical tort claim for less than \$100,000, and this offer is not accepted, the patients' compensation fund will not be held liable to make any payments on a subsequent court award that exceeds \$100,000. Your Committee feels that these conditions will provide maximum protection for the fund.

7. Selection of Board of Medical Examiners. Because physicians and surgeons will be under increased constraints and conditions in their ability to be licensed, your Committee feels that they should be provided the opportunity to have maximum input into the appointment process of the licensing body, the board of medical examiners. Your Committee has therefore restored the appointment process set forth in the original version of H.B. No. 2700-76, which allows physicians and surgeons a vote on the composition of a list of persons from which the governor makes final appointments.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2700-76, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2700-76, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

Minority Report on Stand. Com. Rep. No. 671-76 on H.B. No. 2700-76

Your undersigned Minority members support the legislative findings and purposes of H.B. 2700-76, H.D. 2, S.D. 1 introduced in the Legislature on behalf of the State administration to cope with the growing medical malpractice crisis which has affected the rest of the country and is now causing serious difficulty in Hawaii. For example, testimony revealed that Queen's Medical Center malpractice insurance premium increased 300 percent to \$661,000 in 1975. This costs each patient \$5 extra on his hospital bill for each day in the hospital.

As originally proposed, the bill was an outgrowth of months of work by the administration and a task force consisting of representatives from the medical, legal and insurance community, as well as union representatives and other health consumers. Although such a consensus

bill obviously could not please every single interest group, it did provide a balanced and comprehensive approach to the medical malpractice crisis and was in the best interests of the public. However, the measure which is now being reported out of your judiciary committee, does not serve the public by meeting the criteria originally outlined by the State administration to stabilize the insurance situation by introducing principles of predictability and spreading of risk, to decrease costs of the legal system and improve its efficiency so that awards are more rationally connected to actual damages, to impose sanctions on errant health care providers, and to provide responsible outlets for patient grievances. Neither does the present bill adequately compensate the injured. It is for this reason that we submit this Minority Report and oppose the Committee Report on the following grounds:

1. Contingency Fee Increase. The present draft permits runaway contingent fees which deprive the injured patient of his just compensation. Under the present measure, if the patient lost his right eye due to someone's negligence and was awarded \$100,000 by a jury, he would lose \$40,000 of that award to his attorney in contingency fee alone. The patient would also have to pay witness fees and other court costs. This contrasts with the original administration bill with a sliding scale allowing 33 per cent of the first \$50,000; 20 per cent of the next \$50,000 and 10 per cent of any amount over \$100,000. In the case mentioned above, this would have meant that the plaintiff's attorney would have received \$26,500 of the \$100,000. This is certainly an adequate fee under any circumstances.

2. Deletion of Reporting and Review Requirements for Attorneys. Closely related to our objection about the increase in lawyer contingent fees as compared to the original administration bill is our concern over the omission of a requirement that plaintiffs and defense attorneys report information on fees charged to insurance carriers and injured patients. One of the major purposes of the reporting section of the bill is to let the public know just what portion of each award is paid to the injured person as opposed to the amount dissipated in the system. Curiously, the present draft requires disclosure of this information by both the insurance company and physicians, while eliminating the reporting requirements for attorneys. This is a surprising omission in view of the fact that this section's main purpose is to provide information as to the proportion of the award which goes to the injured patient. Since this information is available only to the plaintiff's attorney, the deletion now makes it impossible to obtain this strategic information.

3. Deletion of Doctrine of Res Ipsa Loquitur. Under the provisions of the original bill, a health care provider was protected from being sued if a complication occurred that was not due to his negligence. On the Mainland, the doctrine has been expanded to allow a plaintiff to recover for any complication without proving that his physician or hospital was negligent. By allowing recovery for injuries not caused by negligence, the judgments paid have skyrocketed as have the malpractice insurance payments costs. Ultimately, these enormous premium costs are borne by the public. The original bill is limited by statute, situations or incidents in which negligence could truly be assumed on the basis of the result of treatment alone. This, in effect, codified the doctrine already in effect in Hawaii, making perversion of the doctrine by judicial whim less likely. Reinstatement of this definition of the doctrine is in the long term best interest of the public.

4. Removal of Judicial Authority from the Medical Claims Conciliation Council. The original administration measure required a circuit court judge to head a medical review panel. A major purpose of mandating a judge on the panel was not only to give the chair a tone of "judicial temperament" but to reduce the number of frivolous claims and require more exacting presentations by attorneys. This revised Senate draft has not only changed the original review panel to a medical claims conciliation panel but has eliminated the judge. By eliminating statutory requirement for a circuit court judge and voicing a "hope" that a judge will be named, the Senate has reduced the effectiveness of the panel and placed its faith in judicial appointment.

5. No Change in Statute of Limitations. Originally, the omnibus bill provided a change in the statute of limitations to provide some control for malpractice claims made 20 or more years after an incident occurred. These protracted losses made it impossible for an insurance company to estimate premiums accurately and provide one cause for the 300% yearly rise in malpractice insurance costs. The administration bill allowed a parent to file suit on behalf of his child up to eight years after the child's sixth birthday, essentially allowing up to 14 years to discover an injury and file a claim. This provision was deleted and the statute may now run for 24 years. A fair trial, 24 years after the fact, is almost impossible as records are often lost and witnesses are not available. We feel that the statute of limitations as amended in the original bill would eliminate the impractical and expensive amounts of the proposed statute.

6. Change of the Section on Informed Consent. The original bill provided a means of assuring that a patient would be provided with sufficient information so that he could make a rational decision in consenting to a specific surgical procedure or treatment. It also would provide the physician with specific requirements to be met in order to obtain proper legal consent from his patient, before treating his patient. By diminishing the authority of the Board of Medical Examiners to prescribe the necessary procedures to obtain legal consent, the Senate has deprived the patient of the assurance that he will be properly informed. As the draft now stands, proper informed consent is so vague that neither patient nor physician is certain as to nature of procedure that should be followed. Under the original draft, the important complications and alternatives of treatment and how these should be presented to the patient, could be specified by the Board. This would reduce misunderstanding and improve the doctor-patient relationship, thereby diminishing the number of unhappy patients and lawsuits.

Your minority members are deeply concerned about the passage of a comprehensive and just medical professional liability bill this session. We also believe that the state administration acted sincerely when it introduced its comprehensive measure based on the consensus of many responsible leaders in the community. The original bill served to place adequate controls on the physicians, the insurance industry and the attorneys and as a result the consumers of health care services were protected from rising costs to a greater degree. As the original bill has gone through various committees the controls have remained on the physicians and insurance companies. Strangely, however, the controls on the attorneys have been reduced and almost eliminated in a form of drastic legislative surgery. Not only have contingency fees been allowed to increase but many of the original restraints on the legal profession have been removed and more burden, responsibility and cost placed on everyone else. We do not feel that the present draft now before the Senate effectively controls all of those who must share some of the burden for the malpractice crisis. For these reasons we cannot totally endorse the present draft even though your minority members are in agreement with the intent of the original bill.

Signed by Senators George, Leopold and Saiki.

SCRep. 672-76      Judiciary on H.B. No. 3109-76

The purpose of this bill is to increase the membership of the board of acupuncture from five to seven members.

Under existing law the board of acupuncture consists of five members, two of whom are private citizens and three of whom are acupuncturists. This bill increases the membership to seven members, three of whom shall be private citizens and four of whom shall be acupuncturists.

Your Committee recommends that this bill be amended by requiring that two members of the board be private citizens and five members be acupuncturists.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3109-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3109-76, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 673-76      Ways and Means on H.B. No. 3018-76

The purpose of this bill is to give the state director of finance further discretion in the selection of depositories for state moneys.

The bill provides that a depository selected for state moneys shall furnish security equal in market value to the amount of moneys deposited. Banks and savings and loan associations applying for a deposit shall be entitled to a loan-to-deposit ratio, and the deposit awarded shall be directly proportional to the bank or savings and loan association's total deposits as compared to all banks and savings and loan association deposits in the State. Supplemental deposits are to be allowed according to an investment or loan plan for use of state deposits. General administration of the deposits shall be under rules and regulations of the director.

Your Committee has amended the bill to provide that the director of finance's duties are discretionary, not mandatory, in making such deposits. This amendment means that the director has total discretion to establish a linked deposit system.

Your Committee has also amended the bill to provide that in making the deposits,

the director shall require mortgage loans represent no less than \$160 of the unpaid principal for each \$100 of deposits instead of the present \$120 and has left the type of securities to be deposited with the director in the director's discretion.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3018-76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3018-76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators O'Connor, Toyofuku, Anderson, Henderson and Soares.

SCRep. 674-76      Transportation on H.B. No. 1801

The purpose of this bill is to amend Chapter 264, Hawaii Revised Statutes, to require state or county agencies preparing proposed plans for major public highways to conduct public hearings before such plans are finalized and in sufficient time to apprise all interested persons of the proposed route of the highway. Dedicated highways are thus excluded.

Your Committee finds that public hearings are already required under Federal law for federally-aided highway projects in the state. This requirement covers most current state Highway projects. Also, a public hearing is required for county improvement district projects which covers most county projects. Public hearings may also be required under county general plan or developmental plan amendments or under existing interim controls for coastal zone management. The state and the city and county are currently following the policy of holding public hearings on proposed major highway projects even though there is no legal requirement for a hearing. Thus, the requirement of holding a public hearing for all major highway projects should not unduly burden the state or counties who have already recognized the beneficial aspects of the hearings.

However, your Committee does not believe that this bill should be allowed to unduly delay a highway project or impose an unnecessary additional public hearing upon those already required. Further, where there is no public interest in the proposed project then a public hearing requirement is unnecessary as is already recognized by federal law for federally aided projects. See Volume 7, Chapter 7, Section 5, Paragraph 7 of Federal Aid Highway Program Manual (December 30, 1974). Therefore, your Committee has amended the bill to add:

1. "The public hearing required under this section may be held in conjunction with a public hearing held on the project to meet the requirement of any federal, state or county law provided the provisions of this section are satisfied.
2. "The proposing agency shall satisfy any requirement for holding a public hearing under this section if adequate notice of the opportunity for the public hearing on the project is given to interested persons and no written requests for the hearing are received by the agency within a reasonable time.
3. "Provide an opportunity for a public hearing" in place of "conduct public hearing".

Your Committee has deleted the words from lines 4 and 5: "major projects or those which result in the taking of rights-of-way" and replaced them with the words: "a major public highway project" and added in the phrase in the second sentence to require that the proposing agency apprise the public of the "scope of the project" as well as the route. "Public Highway" is defined in Section 264-1, Hawaii Revised Statutes. Thus, the apparent intent of the bill is maintained that a major public highway project could trigger a public hearing on its proposed corridor (i.e. a new highway) and its design (i.e. turning a 2 lane highway into a 4 lane highway). Your Committee has also pluralized the word "route" to make sure that interested persons are informed of and can comment on different alternatives the agency is proposing. Your Committee is concerned that the word "major" not be misconstrued to require a public hearing and delay a routine project. Projects which do not have possible adverse economic, social, or environmental effects are not covered. In general, projects involving minor widening, resurfacing, spot improvements, rounding of intersections curbs, and the like are clearly outside the requirements of this chapter. The purpose of this bill as amended is to inform the interested public and get their input so that the best decision on a project can be made.

Your Committee has deleted the words from lines 5 and 6: "in sufficient time to apprise" and added that the agency shall provide an opportunity for a public hearing "at the earliest practicable time before the proposed plans for the project are finalized and commitments have been made by the state or county to the plans or the project." If the public is not



informed and given an opportunity for input at the early stages before the government has committed itself to a proposal, the purpose of having a public hearing is frustrated and a needless exercise is engaged in. Accordingly, this bill does not apply retroactively where such commitments have been made. Your Committee does not consider an appropriation to necessarily be a commitment until the funds are allocated. The words "earliest practical time" are also found in Chapter 343, H.R.S., relating to environmental impact statements and the public hearing called for under this bill should tie in with that process. See also 1:41 of Environmental Quality Commission Regulations relating to Consultations.

Your Committee has also amended the bill to "allow an opportunity for all interested persons to submit data, view, or arguments, orally or in writing." This was probably implied in the original bill.

Your Committee has amended the bill to add a general notice requirement of the public hearing. The provision is purposefully broad to be consistent with your Committee's view that this section not impose an additional public hearing of adequate notice is provided under another law which also requires a public hearing. The proposing agency is given discretion under this provision and the notice to interested persons is complied with if a good faith attempt is made to notify them.

Your Committee has also amended the bill to allow the governor to dispense with the section if there is an emergency need for the highway.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1801, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1801, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senators Takitani and George.

SCRep. 675-76      Legislative Management

Informing the Senate that S.R. Nos. 369 to 371 and Stand. Com. Rep. Nos. 596-76 to 674-76 and 676-76 to 680-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 676-76      Military and Civil Defense on H.C.R. No. 52

The purpose of the concurrent resolution is to have the provisions of the U.S. Department of Defense Legislative Addendum to the 1976-1977 Defense Appropriation Budget which would (1) reduce the training required for members of the Hawaii National Guard and (2) eliminate the benefit of military leave with pay for the federal civil service employees who are members of the Hawaii National Guard, deleted.

Under the U.S. Department of Defense Legislative Addendum to the 1976-1977 Defense Appropriation Budget, there are provisions which would:

1. Transfer about 5,000 members of the Hawaii Army and Air National Guard from category A to B drill status, or from 48 drills to 24 drills.
2. Eliminate the 15 days of military leave with pay in each calendar year for members of the Hawaii National Guard who are federal civil service employees.

Your Committee is informed that such provisions will hamper the voluntary recruitment and retention programs of the Hawaii National Guard seriously affecting its manpower and quality.

Your Committee on Military and Civil Defense concurs with the intent and purpose of H.C.R. No. 52 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 677-76      Human Resources on S.R. No. 286

The purpose of this resolution is to request the Senate Committee on Human Resources to undertake a comprehensive review of financing methods of the unemployment insurance program.

Your Committee finds that financing provisions in the current law have proven to be inadequate to maintain the solvency of the Unemployment Insurance Trust Fund during extended periods of economic recession. Your Committee further finds that although

the emergency flat contribution rate went in to effect in April 1975, the Trust Fund balance continued to decline, and was depleted in February 1976.

Your Committee has amended the resolution by broadening the scope of the review to include an examination of the benefit cost to the Trust Fund.

Your Committee believes that this amendment will aid this review in the development of a more equitable means of financing unemployment insurance benefits.

Your Committee on Human Resources concurs with the intent and purpose of S.R. No. 286, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 286, S.D. 1.

Signed by all members of the Committee.

SCRep. 678-76      Human Resources on S.R. No. 304

The purpose of this resolution is to request the departments of personnel services of the State and counties and other appropriate public and private agencies to undertake a study of determining the most efficient and equitable means to revise the statutory salary structure for civil service employees to accommodate the impact of collective bargaining in the public sector.

Your Committee finds that with the enactment of Act 164, SLH 1975, employees are not entitled to normal annual increment and longevity increases in any year a collective bargaining adjustment is negotiated. As a result, the salary structure which is determined by law is no longer appropriate to the collective bargaining process. It appears to be the general consensus that the number of salary steps are excessive and that the schedule is not responsive to the principles of sound pay.

Your Committee has amended the Resolution by removing references to State departments not directly concerned with the subject and to limit the scope of the review. Your Committee has also amended the Resolution by requesting a review of the report entitled, "APPROPRIATENESS OF SALARY STRUCTURES IN VIEW OF COLLECTIVE BARGAINING," by the directors of the State and counties personnel services and public employee unions and that the Department of Personnel Services report its findings and recommendations to the Legislature before September 1, 1976.

Your Committee has further amended the Resolution to clarify the intent by adding in a Be It Further Resolved clause which states the Committee on Human Resources study and review the findings and recommendations of the Department of Personnel Services during the interim before the 1977 Legislative Session.

Your Committee on Human Resources concurs with the intent and purpose of S.R. No. 304 as amended herein and recommends its adoption in the form attached hereto as S.R. No. 304, S.D. 1.

Signed by all members of the Committee.

SCRep. 679-76      Judiciary on S.C.R. No. 84

The purpose of this concurrent resolution is to request the Governor to appoint a Citizens' Commission on Crime to coordinate the State and county agencies concerned with crime and its various aspects. The Commission is placed within the Department of Attorney General for administrative purposes. The Lieutenant Governor shall be the Chairperson of the Commission.

The Commission shall include ten members of the public, the police chief of the City and County of Honolulu, a representative of the Judiciary, and a representative of the Office of the Prosecutor of the City and County of Honolulu. The Attorney General shall be an additional member of the Commission. He shall utilize his power of subpoena in order to aid the Commission's performance of its functions and shall furnish the necessary staff and a meeting place for the Commission.

Your Committee finds that property losses due to crime are escalating at an alarming rate, incidences of personal violence are soaring, and existing mechanisms and systems are overloaded and are not able to devote sufficient time and resources to develop new approaches to combatting the various types of criminal activity. The establishment of a broad-based citizens body to begin to deal with the matters of organized and other crimes, will provide not only citizen input, but an additional perspective to dealing with crime and its attendant problems.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 84 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 680-76      Judiciary on S.R. No. 324

The purpose of this resolution is to request the Department of Social Services and Housing to adopt an affirmative policy prohibiting the disqualification of or filing of a negative report to the family court on the prospective adopting parents solely on the basis that the parties are handicapped.

Your Committee finds that being handicapped in and of itself does not make an individual a potentially bad parent. Accordingly, the Department of Social Services and Housing, when considering prospective adopting parents, should not disqualify an individual merely because he is blind but should consider whether he is a fit and proper person and financially able to give the child a proper home and education and whether the adoption will be in the best interests of the child.

Your Committee invites reports from the public on any case where the Department of Social Services and Housing has disqualified an individual as an adopting parent merely because he is handicapped. Should there be any reports other than the one already received, your Committee will certainly take appropriate legislative action to preclude that type of action on the part of the Department of Social Services and Housing.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 324 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 681-76      Legislative Management

Informing the Senate that S.C.R. Nos. 93 to 97, S.R. Nos. 372 to 377, Stand. Com. Rep. Nos. 682-76 to 686-76 and Gov. Msg. Nos. 254 to 309 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 682-76      (Joint) Ecology, Environment and Recreation and Economic Development  
on S.C.R. No. 8

The purpose of this concurrent resolution is to request the Policy Council to study the operation, impacts, and results of the Federal A-95 clearinghouse process and to recommend to the Legislature whether such a review mechanism would better facilitate the implementation of the State Plan.

Memorandum A-95 from the federal Office of Management and Budget established a "clearinghouse" process, in which programs and plans of all federal agencies are reviewed for conformity or conflict with general goals and policies and with plans of all other agencies.

Your Committees find that agency programs in the State are at times in direct conflict with specific policies. For example, although the preservation of agricultural land has been a widely supported state policy, actual agency programs have resulted in loss of fertile lands to urban uses. There are also occasions when programs within different agencies are not operating in support of the same policies and goals.

A clearinghouse process similar to that established at the federal level might be an effective way to alleviate some of these conflicts between programs within various state agencies and conflicts between programs of individual agencies and broad state goals and policies.

The Department of Planning and Economic Development, in testifying at a public hearing on this concurrent resolution, stated that they consider this concurrent resolution most appropriate and will work with the Policy Council in exploring this proposal in the development of an implementation program. Since that department has been designated as the State Clearinghouse to administer the A-95 Clearinghouse review process, it is familiar with the administrative and operational aspects of the process.

Your Committees on Ecology, Environment and Recreation and Economic Development concur with the intent and purpose of S.C.R. No. 8 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 683-76 (Joint) Ecology, Environment and Recreation and Economic Development  
on S.C.R. No. 9

The purpose of this concurrent resolution is to request the Policy Council to review respective roles of state and county agencies in land use planning and to recommend, in the context of the State Plan, appropriate institutional means to clarify the respective roles and ensure proper coordination between programs and goals, and to work cooperatively with the Government Reorganization Commission in this endeavor.

Your Committees find that Act 189, SLH 1975, establishes a Policy Council, which is to formulate a State Plan for legislative review. Your Committees further find that decisions which affect the future of the State in numerous areas frequently involve actions on the part of several different government agencies. It is essential to coordinate the individual actions of these various agencies to ensure that these actions are in support of the broader Statewide goals.

It is therefore necessary to specify means through which the programs and policies of various state and county organizations and agencies will be coordinated. One of the major functions of the Policy Council, working with the Reorganization Commission should be to review the roles of all state and county agencies in land use planning and to identify and delineate means by which agencies can coordinate individual actions in support of the broad goals of the State Plan.

The Department of Planning and Economic Development, in testifying at a public hearing on this concurrent resolution, recommended favorable consideration of the concurrent resolution.

Your Committees on Ecology, Environment and Recreation and Economic Development concur with the intent and purpose of S.C.R. No. 9 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 684-76 (Joint) Ecology, Environment and Recreation and Economic Development  
on S.R. No. 15

The purpose of this resolution is to request the Policy Council to study the operation, impacts, and results of the Federal A-95 clearinghouse process and to recommend to the Legislature whether such a review mechanism would better facilitate the implementation of the State Plan.

Memorandum A-95 from the federal Office of Management and Budget established a "clearinghouse" process, in which programs and plans of all federal agencies are reviewed for conformity or conflict with general goals and policies and with plans of all other agencies.

Your Committees find that agency programs in the State are at times in direct conflict with specific policies. For example, although the preservation of agricultural land has been a widely supported state policy, actual agency programs have resulted in loss of fertile lands to urban uses. There are also occasions when programs within different agencies are not operating in support of the same policies and goals.

A clearinghouse process similar to that established at the federal level might be an effective way to alleviate some of these conflicts between programs within various state agencies and conflicts between programs of individual agencies and broad state goals and policies.

The Department of Planning and Economic Development, in testifying at a public hearing on this resolution, stated that they consider this resolution most appropriate and will work with the Policy Council in exploring this proposal in the development of an implementation program. Since that department has been designated as the State Clearinghouse to administer the A-95 Clearinghouse review process, it is familiar with the administrative and operational aspects of the process.

Your Committees on Ecology, Environment and Recreation and Economic Development concur with the intent and purpose of S.R. No. 15 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 685-76 (Joint) Ecology, Environment and Recreation and Economic Development on S.R. No. 16

The purpose of this resolution is to request the Policy Council to review respective roles of state and county agencies in land use planning and to recommend, in the context of the State Plan, appropriate institutional means to clarify the respective roles and ensure proper coordination between programs and goals, and to work cooperatively with the Government Reorganization Commission in this endeavor.

Your Committees find that Act 189, SLH 1975, establishes a Policy Council, which is to formulate a State Plan for legislative review. Your Committees further find that decisions which affect the future of the State in numerous areas frequently involve actions on the part of several different government agencies. It is essential to coordinate the individual actions of these various agencies to ensure that these actions are in support of the broader State-wide goals.

It is therefore necessary to specify means through which the programs and policies of various state and county organizations and agencies will be coordinated. One of the major functions of the Policy Council, working with the Reorganization Commission should be to review the roles of all state and county agencies in land use planning and to identify and delineate means by which agencies can coordinate individual actions in support of the broad goals of the State Plan.

The Department of Planning and Economic Development, in testifying at a public hearing on this resolution, recommended favorable consideration of the resolution.

Your Committees on Ecology, Environment and Recreation and Economic Development concur with the intent and purpose of S.R. No. 16 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 686-76 (Joint) Economic Development and Ecology, Environment and Recreation on S.R. No. 12

The purpose of this Resolution is to request that the Department of Land and Natural Resources complete necessary revisions to its Regulation 4, governing uses of lands within the Conservation Land Use District.

In public hearing, your Committees found that this necessary revision was addressed earlier by the Environmental Center in a statement prepared for a public hearing held by your Committee on Ecology, Environment and Recreation on October 22, 1975. To date, the perpetration of confusion and friction throughout the State over the purposes and administration of the Conservation Districts continues to mar the existing Land Use Law. Many permits have been granted, by the Department of Land and Natural Resources under the auspices of Regulation 4, which allow for questionable and perhaps inappropriate land use within the Conservation Districts.

Your Committees on Economic Development and on Ecology, Environment and Recreation concur with the intent and purpose of S.R. No. 12 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 687-76 Legislative Management

Informing the Senate that S.R. Nos. 378 to 382 and Stand. Com. Rep. Nos. 688-76 to 691-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 688-76 Economic Development on S.C.R. No. 44

The purpose of this Resolution is to request that the United States Department of the Navy restore the island of Kahoolawe so that it becomes fit, once again, for wildlife and human habitation, and that the United States Government then return jurisdiction of the island to the State of Hawaii.

In public hearing, your Committee found that the island of Kahoolawe, one of the eight major Hawaiian islands, is too valuable as an historical site and potentially, as a conservation and recreation site, to be left to the destructive effects of military bombing. Your Committee further finds that Kahoolawe can serve our economy scientifically, providing facilities

necessary for scientific research and for the production of solar energy.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 44 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 689-76 Economic Development on S.R. No. 182

The purpose of this resolution is to request the Fish and Game division of the Department of Land and Natural Resources to take constructive measures toward the establishment of protected marine areas to preserve our local marine environment.

Your Committee finds that the marine environment is one of Hawaii's most valuable assets offering commercial, recreational, and aesthetic values for the enjoyment of residents and visitors alike. There is some concern at present that Hawaii's nearshore marine resources are being depleted by fishing and collecting pressures. One means of combating this apparent depletion is by the establishment of additional marine conservation districts like Hanauma Bay and Kealakekua Bay. If established, these areas could also serve as natural educational and recreational sites or marine parks and could be used for scientific study. Moreover, your Committee finds that the use of these areas as marine parks is not incompatible with their conservation function. It further enables people to view marine life in as close to a natural state as possible.

In examining the history of marine life conservation districts in Hawaii, your Committee finds that the State Department of Land and Natural Resources has established two marine life conservation districts in Hawaii: Hanauma Bay, established on Oahu in 1967, and Kealakekua Bay, established on the island of Hawaii in 1969. There is also a natural area reserve at the Cape KinauAhihi Bay area on Maui, established in 1970. The selection of these particular sites was made primarily on a geographic basis, with the ease of definition apparently being the foremost consideration.

Since their inception, these conservation districts, especially Hanauma Bay, have enjoyed considerable success as recreational sites. Hanauma Bay typically receives 1500 to 2000 visitors per weekend day and 500 to 800 per weekday. There has been an apparent success from the conservation standpoint at Hanauma Bay: fish populations appear to have increased.

Your Committee notes that, of the sites recommended for the establishment of marine conservation areas, a site south of the Kahe Beach Park on Oahu would be the most suitable, if the City and County of Honolulu is successful in obtaining the adjoining land for a beach park. The second choice on Oahu is Pupukea Beach Park.

In establishing priorities for the establishment of marine life conservation districts, your Committee is cognizant of the findings of the 1975 Sea Grant study entitled: "The Potential for Additional Marine Conservation Districts on Oahu and Hawaii". Your Committee notes the study's findings that Kahe, Pupukea, and Makapuu all surpassed Hanauma Bay in a comparison of biological characteristics. All three were ranked higher in fish abundance and fish and coral diversity.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 182 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 690-76 Economic Development on S.R. No. 215

The purpose of this resolution is to reaffirm the Legislature's commitment to supporting agricultural development in Hawaii by urging that the agencies of the State of Hawaii and the several counties, as well as entities in the private sector, give proper consideration to the needs of agriculture in relation to water.

Your Committee, in public hearing, has recognized the importance of agricultural development to the future of the State's economy. Furthermore, your Committee finds that the preservation and encouragement of diversified agriculture in Hawaii is, in a large part, dependent upon the development of adequate water resources and water transmission facilities.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 215 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 691-76 Economic Development on S.R. No. 331

The purpose of this Resolution is to salute the Pacific Area Travel Association for its primary leadership role in aiding Pacific countries to improve their tourism facilities and to congratulate the Pacific Area Travel Association on the occasion of its Twenty-Fifth Anniversary Conference and Workshops in Hawaii.

Your Committee finds that the Pacific Area Travel Association was organized as a non-profit corporation under the laws of Hawaii in 1951 with 35 member countries. Since that time, the Association has provided essential leadership in aiding Pacific countries to improve their tourism facilities, thus enhancing their attractiveness and service to visitors from North America, Europe, Asia, and around the world. The Association, composed of representatives from Pacific nations and 53 sea and air carriers, plus major international travel-related firms as active members and more than 1,400 allied and associate members, has recently expanded its worldwide travel promotion of the Pacific area through 29 PATA chapters throughout the world. Your Committee further notes that the Pacific Area Travel Association has held its annual conferences and workshops in twenty-four Pacific nations in as many years, and that the Twenty-Fifth Anniversary Conference and Workshops will be held in Hawaii.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 331 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 692-76 Legislative Management

Informing the Senate that S.C.R. Nos. 98 and 99, S.R. Nos. 383 and 384, Stand. Com. Rep. Nos. 693-76 and 694-76 and Gov. Msg. Nos. 315 to 360 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 693-76 (Joint) Economic Development and Ecology, Environment and Recreation on S.C.R. No. 11

The purpose of this Concurrent Resolution is to request that the Policy Council work cooperatively with all elements of the private sector of the economy to structure means through which the use of private capital will support the goals and programs of the State Plan; and, in formulating the State Plan, to structure mechanism which will assist private capital in meeting the goals of the State Plan.

Your Committees found, in public hearing, that the viability and successfulness of the State Plan is contingent upon the inclusion of various sectors, including private capital, of our society, working together to support and implement State goals and objectives. We feel it is necessary, furthermore, to have clearly delineated the areas where private investments are appropriate, and where they are not.

Your Committees on Economic Development and on Ecology, Environment and Recreation concur with the intent and purpose of S.C.R. No. 11 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 694-76 (Joint) Economic Development and Ecology, Environment and Recreation on S.R. No. 4

The purpose of this Resolution is to request the Governor to conduct and complete an actual carrying capacity study for a specific area or system within the State, and to request that the various county agencies cooperate with the Governor in such efforts. In conjunction with such a carrying capacity study, a progress report is called for prior to the opening of the 1977 legislative session.

In public hearing, your Committees determined that the administration's efforts in this area began in 1974 with the Governor's appointment of a Steering Committee for Carrying Capacity Studies. This Steering Committee is composed of representatives from the Departments of Planning and Economic Development, Health, Social Services and Housing, the Office of Environmental Quality Control, the Hawaii Environmental Simulation Laboratory, and the Pacific Urban Studies Planning Program. Since its inception, the Steering Committee has provided coordination and guidance for the carrying capacity research efforts undertaken by the Department of Planning and Economic Development and the Office of Environmental Quality Control. During the past year, the Steering Committee

has conducted several technical workshops, inviting participation and input to its study from both State and County agency representatives, State legislators, County Councilmen, and from nongovernment groups as well as the press. The Steering Committee has just published its report on "Carrying Capacity Prototype Investigations in the State of Hawaii", and is presently prepared to carry out the project requested in the Resolution.

Your Committees on Economic Development and on Ecology, Environment and Recreation concur with the intent and purpose of S.R. No. 4 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 695-76      Legislative Management

Informing the Senate that S.C.R. Nos. 100 to 102, S.R. No. 385 and Stand. Com. Rep. Nos. 696-76 to 702-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 696-76      (Joint) Ecology, Environment and Recreation and Economic Development  
on S.C.R. No. 10

The purpose of this concurrent resolution is to request the Policy Council to review the existing system of state land use classification and make recommendations for a classification system which will effectively support the recommended land use policies of the State Plan.

Your Committees find that Act 189, SLH 1975, establishes a Policy Council which is to formulate a State Plan and submit a report to the Legislature, Regular Session of 1977. This report will include recommendations of land use guidance policies and means of implementing these policies.

The Land Use Law provides for districting of all land into urban, rural, agriculture or conservation. In testifying at a public hearing on this concurrent resolution the Department of Planning and Economic Development stated that the problems with the present district classifications may be due to actions other than the inadequacy of the four types of districts.

Your Committees have amended the concurrent resolution by deleting the request that the Policy Council recommend, in context of the State Plan being formulated, a classification system which will more effectively support the land use guidance policies it recommends, and by requesting the Policy Council to review the existing system of state land use classification to determine whether it most effectively supports the land use guidance policies it recommends.

Your Committees on Ecology, Environment and Recreation and Economic Development concur with the intent and purpose of S.C.R. No. 10, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 10, S.D. 1.

Signed by all members of the Committees.

SCRep. 697-76      Ecology, Environment and Recreation on S.C.R. No. 19

The purpose of this resolution is to request that the United States Environmental Protection Agency immediately cease any and all actions pertaining to the proposed undersea storage of nuclear wastes until such time as the safety of the proposed storage plan is clearly proven.

A location on the floor of the Pacific Ocean 600 miles north of Hawaii is being considered as a disposal site for radio-active wastes. Your Committee finds that this planned storage of wastes in the ocean might prove hazardous to the health and welfare of all the people of Hawaii as well as threatening to sea life and ocean resources and ultimately all inhabitants of the world.

The Director of Health, in testifying at a public hearing on this concurrent resolution, supported passage of the concurrent resolution. He pointed out that the Division of Nuclear Fuel Cycle and Production of the United States Energy Research and Development Administration is responsible for the treatment, storage and disposal of radioactive waste, and recommended that a certified copy of the concurrent resolution be sent to that Administration. Your Committee has amended the concurrent resolution accordingly.

Your Committee on Ecology, Environment and Recreation concurs with the intent and



purpose of S.C.R. No. 19, as amended herein, and recommends its adoption in the form attached hereto, as S.C.R. No. 19, S.D. 1.

Signed by all members of the Committee.

SCRep. 698-76 Ecology, Environment and Recreation on S.R. No. 5

The purpose of this resolution is to request the State Comptroller to investigate the feasibility of design review in the award process for architectural contracts for State buildings.

Your Committee finds that design review conducted in the public interest by qualified persons could enhance the attractiveness not only of the building but of the entire area and hence the community. Good design not only can be a source of added delight in one's environment, but can foster energy conservation and otherwise intensify utility as well. Design review has been endorsed by the American Institute of Architects, which has recommended model legislation in this area.

Your Committee has amended the resolution to require that the Comptroller report his findings to the Senate prior to the opening of the Regular Session of 1977.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of this resolution, S.R. No. 5, as amended herein, and recommends its adoption in the form attached hereto, as S.R. No. 5, S.D. 1.

Signed by all members of the Committee.

SCRep. 699-76 (Joint) Ecology, Environment and Recreation and Economic Development on S.R. No. 17

The purpose of this resolution is to request the Policy Council to review the existing system of state land use classification and make recommendations for a classification system which will effectively support the recommended land use policies of the State Plan.

Your Committees find that Act 189, SLH 1975, establishes a Policy Council which is to formulate a State Plan and submit a report to the Legislature, Regular Session of 1977. This report will include recommendations of land use guidance policies and means of implementing these policies.

The Land Use Law provides for districting of all land into urban, rural, agriculture or conservation. In testifying at a public hearing on this resolution the Department of Planning and Economic Development stated that the problems with the present district classifications may be due to actions other than the inadequacy of the four types of districts.

Your Committees have amended the resolution by deleting the request that the Policy Council recommend, in context of the State Plan being formulated, a classification system which will more effectively support the land use guidance policies it recommends, and by requesting the Policy Council to review the existing system of state land use classification to determine whether it most effectively supports the land use guidance policies it recommends.

Your Committees on Ecology, Environment and Recreation and Economic Development concur with the intent and purpose of S.R. No. 17, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 17, S.D. 1.

Signed by all members of the Committees.

SCRep. 700-76 Ecology, Environment and Recreation on S.R. No. 68

The purpose of this resolution is to request that the United States Environmental Protection Agency immediately cease any and all actions pertaining to the proposed undersea storage of nuclear wastes until such time as the safety of the proposed storage plan is clearly proven.

A location on the floor of the Pacific Ocean 600 miles north of Hawaii is being considered as a disposal site for radioactive wastes. Your Committee finds that this planned storage of wastes in the ocean might prove hazardous to the health and welfare of all the people of Hawaii as well as threatening to sea life and ocean resources and ultimately all inhabitants of the world.

The Director of the Department of Health, in testifying at a public hearing on this resolution, supported passage of the resolution. He pointed out that the Division of Nuclear Fuel

Cycle and Production of the United States Energy Research and Development Administration is responsible for the treatment, storage and disposal of radioactive waste, and recommended that a certified copy of the resolution also be sent to that Administration. Your Committee has amended the resolution accordingly.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 68, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 68, S.D. 1.

Signed by all members of the Committee.

SCRep. 701-76 Ecology, Environment and Recreation on S.R. No. 130

The purpose of this resolution is to encourage communities to support the continuation of existing community gardens and the initiation of other similar gardens.

The City and County of Honolulu, as part of its community garden project, has established a pilot community garden in Makiki District Park with over one hundred 100-square-foot plots, each tended by individual gardeners. Your Committee finds that this pilot community garden has been generally successful.

These gardens are in great demand with long waiting lists for plots in the City and County of Honolulu. There are plans for the establishment of 600 garden plots in Honolulu by June 1976. There have also been inquiries from Neighbor Island counties about the Honolulu programs.

The concept of community gardening encourages self reliance, offers first hand experience in horticulture and self-management, and enables individuals to eat healthy, nourishing food, economize on grocery bills, and make productive use of land.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 130 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 702-76 Consumer Protection on Gov. Msg. Nos. 210, 212, 213, 214, 215, 216, 217, 218, 219 and 220

Recommending that the Senate advise and consent to the nomination to the Consumer Advisory Council as follows: DANIEL J. PACHECO, ROBERT M. ODA, WILFRED TAVARES, PATRICIA A. MURRAY, JAMES K. KELEKOLIO, JALNA S. KEALA, EDMUND T. MITCHELL, GEORGE M. WAIALEALE, NAOMI R. CORREA and THOMAS S. SHIMABUKU, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 703-76 Legislative Management

Informing the Senate that Gov. Msg. No. 362 and 365 to 402, S.C.R. Nos. 103 to 105, S.R. Nos. 386 to 401 and Stand. Com. Rep. Nos. 704-76 to 708-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 704-76 Public Utilities on H.C.R. No. 16

The purpose of this concurrent resolution is to request a thorough study and examination by the Public Utilities Commission and the Director of Regulatory Agencies of the fuel adjustment clause as a device for revising the rates for public utility energy services.

In substance, Hawaii has resorted to the "fuel adjustment clause" to provide an automatic means of adjusting energy public utility rates to reflect the fluctuation in fuel oil costs as they occur. However, the legislative auditor's management audit revealed the existence of major questions and shortcomings concerning the fuel adjustment clause as a regulatory device in Hawaii and further revealed inadequacies in the control exercised over fuel adjustment clauses and in the administration of such clauses, resulting in inequities among utility customers. Therefore, your Committee supports the position contained in the resolution which calls for referring the study of the fuel adjustment mechanism to the Public Utilities Commission and the Director of Regulatory Agencies.

S. C. R. No. 34, which is a companion resolution to H. C. R. No. 16 was discussed

at the public hearing held by your Committee on February 26, 1976. All those who testified were in favor of S. C. R. No. 34 and thought highly of the merits of such study.

Your Committee on Public Utilities concurs with the intent and purpose of H. C. R. No. 16 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 705-76 Education on S.R. No. 175

The purpose of this resolution is to direct the Department of Education to stop all discriminatory practices in administering the free and reduced price school lunch programs in public schools and to immediately develop alternatives to its current standards and procedures that will give full force and effect to the salutary purpose of the National School Lunch Act, as amended.

Your Committee has amended the resolution to allow the Department to conduct a field test of its proposed prepaid lunch ticket system (Accu-Tab) in contrast to requiring the Department to fulfill the above stated objectives. Although the standards appear to comply with federal laws and regulations, the Department is cognizant that its operational practices continue to result in overt identification of students receiving free meals.

The purpose of this resolution, therefore, is to request the Department of Education to conduct a field test of its prepaid lunch ticket system, including an evaluation of its findings and conclusions, and to develop alternative means to administer the free school lunch program in the event that the proposed prepaid system fails to eliminate discrimination found under the Department's current Standards and Procedures for Free Meals. The title to this resolution has accordingly been amended to reflect the changes made to the measure. The substance to this problem is of such importance that your Committee feels it highly appropriate to provide further background and discussion.

Your Committee finds that the lack of student anonymity heretofore associated with the free and reduced price school lunch programs as reported in 1971 by the legislative auditor in the "Financial Audit of the School Lunch Services Program" has been allowed to continue without significant resolve. Despite the vivid rage and consternation expressed at that time by the legislature, press and general public, the Department insists that its current Standards and Procedures for Free Meals and Milk are in compliance with the law as they were approved by the USDA in 1974 and in fact assure student anonymity over its former procedures even though the current approach varies very little from the past.

The illegal and insensitive practices which afflict thousands of school children each day include issuing tokens to free lunch students during homeroom period or issuing tokens from a centralized office to students as they proceed to the cafeteria lunch line, paying for lunches with tokens that are clearly identifiable to both paying and nonpaying students which are in the main limited to free lunch recipients, picking up tokens from a school's cafeteria manager, and requiring that children either get their tokens during recess or before school starts.

Your Committee received public testimony from the American Civil Liberties Union, the Legal Aid Society of Hawaii, and the National Association of Social Workers supporting S.R. No. 175. The resounding theme expressed by these concerned citizen interest organizations was that the Department has failed to comply with the law, and more importantly, has not adequately been concerned in preventing the stigmatizing effect of its current practices on school children.

Your Committee finds that the Department's Standards and Procedures for Meals and Milk wanting in meeting the very objective that they were intended to satisfy. Your Committee will not and cannot accept standards and procedures that have the net effect of increasing the burdens on less fortunate children by, for example, requiring them to arrive at schools earlier or be relegated to cutting down on their recess time in picking up "tokens" which are the very things that preclude anonymity, or providing students with voluntary work programs to presumptively assuage prideful students' feelings of guilt in receiving something for which they are entitled to by law without a charge or service of any kind.

Your Committee seriously believes that the over 30,000 students now being served lunches pursuant to the Act deserve more imaginative and effective efforts on the part of the Department in reducing the humiliating and insensitive practices that they have been subjected to. Since the audit report of 1971, almost five years ago, the Department has not generated a single alternative of statewide application that recognizes the magnitude of its program deficiencies and, accordingly, your Committee is not of the opinion that

our children must wait another five years for positive results that are long overdue.

While your Committee realizes that the problem of discrimination is not one that is susceptible to simple resolution, and that the problem becomes even more acute in the secondary level of education, solutions of general application could definitely provide for the final disposition of the situation now facing public schools. The Department has presented a proposal to conduct a three-month field test from April 9, 1976 until June 30, 1976 of its prepaid lunch ticket system in seven public schools. The Accu-Tab system uses tickets with an electronic recording unit that the Department feels will assure full accountability without overtly identifying the student receiving a free meal.

Your Committee believes that a field test of the Accu-Tab system (and possibly other systems) is a step in the right direction. If test results prove unfavorable, then the Department is urged to seek other alternative means during the 1977 regular school year in implementing the free lunch program with savings available from the school lunch services program.

Your Committee is aware of the decision rendered by the Court in Justice v. Board of Education, 351 F. Suppl. 1252 (1972), in striking down the validity of one school plan. The Court held that where a system of tickets for obtaining free or reduced price lunches was limited almost exclusively to needy children qualifying under the federal school lunch program, such procedure violated the prohibition of the chapter against discrimination or overt identification by special tokens or tickets or other means. Furthermore, the fact that some school children who paid for their lunches also used the tickets--as is the case in Hawaii except that tokens are used--was no justification for stigmatizing eligible children by pointing them out as recipients of public largesse. In light of this case, the needed direction is clear and the consequences quite certain.

Your Committee on Education concurs with the intent and purpose of S.R. No. 175, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 175, S.D. 1.

Signed by all members of the Committee.

SCRep. 706-76 Human Resources on S.R. No. 335

The purpose of this Resolution is to study the feasibility of implementing a program of job sharing by government employees on a regular and continual basis.

Your Committee finds that a study of this nature would stimulate some interesting discussion on present and preferred life-styles, the concept of work, security, self-fulfillment, child rearing, and other social and personal factors, as well as the obvious and necessary financial cost-benefit factor. Your Committee also finds that the voluntary nature of the proposed job sharing program should remove any threat on the part of those who are now fully-employed and want to continue doing so. Yet for others, it may be an opportunity to re-examine their values regarding time and money, and working time in relation to time spent on other very important activities related to family, self-realization, volunteer work, political involvement, professional improvement, and the real meaning of recreation.

Your Committee further finds that the proposed job-sharing program would give young people a chance to work in their field of training and make their contribution to society.

Your Committee has amended the bill by stating that the Legislative Reference Bureau is requested, in cooperation with the Department of Personnel Services, Department of Labor and Industrial Relations, and Department of Planning and Economic Development and in coordination with the personnel department of the several counties and other appropriate public and private agencies to study the feasibility of implementing a policy permitting voluntary part-time employment, as a part of a job sharing program of government employees on a regular and continuing basis. The purpose of the amendment is to have the Legislative Reference Bureau conduct the study instead of the Department of Personnel Services because your Committee feels that they (LRB) are better qualified and have the necessary manpower to conduct such a study.

Your Committee on Human Resources concurs with the intent and purpose of S.R. No. 335 as amended herein and recommends its adoption in the form attached hereto as S.R. No. 335, S.D. 1.

Signed by all members of the Committee.

SCRep. 707-76 Human Resources on S.R. No. 355

The purpose of this resolution is to urge employers to give unemployed persons priority over persons already holding a job when hiring.

Your Committee finds that the State is continually reminded of the need for some sort of assistance during this period of high unemployment by the periodic demonstrations at the Department of Labor and Industrial Relations and by the names of 40,000 individuals who are listed in the job applicant files wanting the opportunity to work. Your Committee further finds that many of these people are highly qualified and have shown a willingness to accept jobs at lower pay than they are qualified for.

Your Committee believes that the ideas put forth in this resolution can serve as a tool to partially alleviate Hawaii's high rate of unemployment. Your Committee further believes that this resolution may alleviate some of the socio-economic problems faced by persons who are unable to find a job.

Your Committee on Human Resources is in accord with the intent and purpose of S.R. No. 355 and recommends that it be adopted.

Signed by all members of the Committee.

SCRep. 708-76 Human Resources on H.B. No. 2170-76

The purpose of this bill is to amend Hawaii Revised Statutes to (1) change the title of Section 27-22 H.R.S., (2) change the number of committee members from seven to nine, and (3) make a technical change involving the transfer of the provisions relating to hospital administrators from Section 27-22 to Section 27-21.2, H.R.S.

Changing the title of the Section makes it correspond to the preferred wording of "county hospital advisory committee" as contained in the body of the section. Deletion of the word "general" permits the committee to act in an advisory capacity to those hospitals which are not general hospitals.

Increasing the membership of the committee provides a broader base for advising the Director of Health, particularly regarding quality of medical care, medical equipment and technology. In testimony, Mr. George Yuen, Director of the Department of Health, felt this advice would be of great assistance in the assessment of and recommendations concerning new medical services and delivery system.

The present provisions for appointing hospital administrators are intermixed with management advisory committees and committee members in Section 27-22. The more appropriate location is in Section 27-21.2, H.R.S., which pertains to hospital personnel.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2170-76, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 709-76 Legislative Management

Informing the Senate that S.C.R. Nos. 106 and 107, S.R. Nos. 403 to 410, Stand. Com. Rep. Nos. 710-76 to 713-76 and Gov. Msg. Nos. 405 to 448 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 710-76 (Majority) Human Resources on H.C.R. No. 74

The purpose of this resolution is to request the Congress of the United States to direct the Secretary of the Department of Agriculture to cease promulgation of the proposed food stamp rules and regulations until Congress itself has taken action on food stamp reform measures presently under consideration.

Your Committee finds the intent of the proposed regulations to be the reduction of food stamp program cost through a drastic reduction in program participation. Nationally, the Administration anticipates saving \$1.2 billion in FY 1977 by reducing participation from 18.5 to 13 million beneficiaries. The State would lose an estimated \$1 million to \$1.5 million a month in federal food stamp bonus, approximately one-half of the \$3 million presently flowing into Hawaii.

The Department of Social Services and Housing anticipates the effect of the proposed rules and regulations on Hawaii recipients to be as follows: about 30 per cent of the present 100,000 recipients would no longer qualify; another 30 per cent would have their bonus amounts trimmed drastically; almost all of the working poor would no longer qualify; and the elderly, the majority of whom live on fixed incomes, would be required to pay much more than they are presently paying for their food stamps. The proposal does not take into consideration regional differences in standards of living, a factor which unjustly penalizes Hawaii's public assistance recipients and working poor whose incomes exceed the national poverty level eligibility guidelines, yet are barely sufficient to provide adequately for Hawaii's cost of living. The severity and nature of the cutbacks proposed by the United States Department of Agriculture are policy questions which necessitate review by the public and by Congress; thus, such major reform of the Food Stamp program should be carried out through amendment of the Food Stamp Act rather than through promulgation of rules and regulations.

Your Committee further finds that contrary to the expectations of United States Department of Agriculture officials, the purpose of improving food stamp program administration will not be met by the proposed changes. The Department of Social Services and Housing testified that rather than simplifying the program, some of the proposals such as the 90 day budgeting period for calculating income; monthly income reporting by all recipients, stricter work registration requirements; and revision of the procedures for distributing, issuing and accounting for coupons and receipts, would create administrative complexities requiring additional staff and resulting in higher error rates. The effect of these administrative changes must be carefully reviewed prior to implementation.

Your Committee on Human Resources is in accord with the intent and purpose of H.C.R. No. 74, H.D. 1 and recommends its adoption.

Signed by all members of the Committee.  
Senators Anderson, Henderson and Soares did not concur.

SCRep. 711-76 Intergovernmental Relations on S.R. No. 244

The purpose of this resolution is to request a study of the Manoa Valley area directed toward establishing Manoa Valley as a special design district. The study would include, but not be limited to, determining land use, building density, places of scenic and historical value, and compatibility with the environment.

This Committee heard testimony dwelling upon whether or not a study of the Manoa area is desirable.

Your Committee finds that the City and County of Honolulu is presently reevaluating the General Plan for the Lower Manoa area. The City's department of general planning was not aware of any strong pressures for changing the residential character of the entire Manoa Valley. Your Committee also finds that the establishment of a moratorium on new building construction in Manoa Valley is inappropriate at this time.

The Resolution has been amended to provide that the City and County of Honolulu will be requested to expand their reevaluation of the entire Manoa Valley area. The Resolution has been further amended to exclude the establishment of a moratorium on all new building construction.

Your Committee on Intergovernmental Relations concurs with the intent and purpose of S.R. 244, as amended herein, and recommends that it be referred to the Committee on Economic Development in the form attached hereto as S.R. 244, S.D. 1.

Signed by all members of the Committee.

SCRep. 712-76 Ecology, Environment and Recreation on S.R. No. 170

The purpose of this resolution is to endorse present negotiations between the State of Hawaii and the Mokauea Fishermen's Association for the preservation of the Mokauea fishing community.

Your Committee finds that the Mokauea Island fishing community has a long history. Evidence shows that the fishing community flourished on Mokauea Island in the last century.

Negotiations concerning a "live-in arrangement" for the preservation of the fishing community are currently underway between the Governor's office, members of the Mokauea Fishermen's Association, the Department of Transportation, Department of the Interior, Department of Land and Natural Resources, Federal Aviation Administration, and the

Kalihi-Palama Community Council. In testifying at a public hearing on this resolution, members of the Mokauea Fishermen's Association stated that they would be happy with such a "live-in arrangement." Your Committee finds that the State has permitted a number of live-in arrangements on boats within Keehi Lagoon.

Your Committee has amended the resolution to delete references to the findings of the Department of Transportation, has added the words "for a 'live-in arrangement' as proposed by the governor" to the first BE IT RESOLVED clause, and has added the Chairman of the Honolulu City Council to the list of those to whom certified copies should be sent. Your Committee has amended the title of the resolution to delete reference to the findings of the Department of Transportation.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 170, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 170, S.D. 1.

Signed by all members of the Committee.

SCRep. 713-76 Ecology, Environment and Recreation on S.R. No. 161

The purpose of this resolution is to request the Department of Accounting and General Services to seek ways to alleviate the noxious condition of the pools which surround the State Capitol Building and study the feasibility of the introduction of tilapia mossambica into the pools as a possible solution.

Your Committee finds that for the past four years the Department of Accounting and General Services has contracted the maintenance of the Capitol pools to Hawaiian Aqua Products, Inc. The contract consists of a two-part maintenance system of treatment with chlorine dioxide and a specially designed vacuuming system. Your Committee finds that the contract specifications presently limit the awarding of the contract to the sole state distributor of the product specified. The system seems not to be working very well in spite of the fact that the State is presently spending \$30,000 per year on these pools. Testimony at the hearing indicated that other approaches have been successfully used elsewhere.

It is the intent of the Senate that the Department of Accounting and General Services study the feasibility of a variety of methods of alleviating the present condition of the pools, and your Committee has amended the resolution to more clearly reflect this intent.

Your Committee has further amended the resolution to require that the Department report its findings to the Senate prior to the opening of the Regular Session of 1977.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 161, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 161, S.D. 1.

Signed by all members of the Committee.

SCRep. 714-76 Legislative Management

Informing the Senate that S.C.R. Nos. 108 to 112 and S.R. Nos. 411 to 422 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 715-76 Legislative Management

Informing the Senate that S.C.R. Nos. 113 to 118, S.R. Nos. 423 to 439 and Stand. Com. Rep. Nos. 716-76 to 728-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 716-76 Consumer Protection on Gov. Msg. No. 427

Recommending that the Senate advise and consent to the nomination of EVERETT U. AFOOK, to the Consumer Advisory Council, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 717-76 Military and Civil Defense on Gov. Msg. No. 127

Recommending that the Senate advise and consent to the nomination of EDWARD MIYAKE to the Civil Defense Advisory Council, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 718-76 Military and Civil Defense on Gov. Msg. No. 128

Recommending that the Senate advise and consent to the nomination of REV. DAVID K. KAUPU, to the Civil Defense Advisory Council, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 719-76 Military and Civil Defense on Gov. Msg. No. 173

Recommending that the Senate advise and consent to the nomination of JOSEPH AKIONA, to the Pacific War Memorial Commission of Hawaii, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 720-76 Military and Civil Defense on Gov. Msg. No. 174

Recommending that the Senate advise and consent to the nomination of THOMAS T. HORIO, to the Pacific War Memorial Commission of Hawaii, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 721-76 Ecology, Environment and Recreation on Gov. Msg. Nos. 120 and 121

Recommending that the Senate advise and consent to the nominations of DR. FRANK J. RADOVSKY and DR. SHEILA CONANT, to the Animal Species Advisory Commission, for terms ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 722-76 Ecology, Environment and Recreation on Gov. Msg. No. 155

Recommending that the Senate advise and consent to the nomination of EDWINA U. BRIGHT, to the Hawaii Bicentennial Commission, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 723-76 Ecology, Environment and Recreation on Gov. Msg. No. 185

Recommending that the Senate advise and consent to the nomination of TOMMY M. MATSU-MOTO, to the Advisory Committee on Flowers and Foliage, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 724-76 Ecology, Environment and Recreation on Gov. Msg. Nos. 186, 187, 188, 189, 190 and 199

Recommending that the Senate advise and consent to the nomination to the Fish and Wildlife Advisory Committee, as follows:

CAESAR J. JARDIN, County of Kauai, for term ending December 31, 1977;  
YOSHIO N. NAKAMOTO, County of Kauai, for term ending December 31, 1977;  
CARMEN HULU NAKASONE, County of Maui, for term ending December 31, 1976;  
HENRY T. S. LAU, County of Maui, December 31, 1977;  
JOHN PERREIRA, JR., County of Maui, for term ending December 31, 1977; and  
JOHN K. OBATA, City and County of Honolulu, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 725-76 Ecology, Environment and Recreation on Gov. Msg. Nos. 200, 201 and 202

Recommending that the Senate advise and consent to the nomination to the Natural Area Reserves System Commission, as follows:



RICHARD S. SHOMURA, for term ending December 31, 1979;  
P. QUENTIN TOMICH, for term ending December 31, 1979; and  
ROBERT A. KINZIE, III, for term ending December 31, 1976.

Signed by all members of the Committee.

SCRep. 726-76 Ecology, Environment and Recreation on Gov. Msg. No. 225

Recommending that the Senate advise and consent to the nomination of FRANKLIN SUNN, to the Environmental Council, for term ending December 31, 1976.

Signed by all members of the Committee.

SCRep. 727-76 Ecology, Environment and Recreation on S.R. No. 327

The purpose of this resolution is to request the Senate Committee on Ecology, Environment and Recreation to conduct an interim hearing on provisions for exemption of classes and types of actions from environmental impact statement requirements and to report its findings to the Legislature prior to the opening of the 1977 session.

Your Committee finds that Chapter 343, Hawaii Revised Statutes, provides for the establishment by the Environmental Quality Commission of a list of actions which, because they will have minimal or no significant effect on the environment, shall be exempt from environmental impact statement requirements. An exempt class or type of action may be established on the basis of the negligible impact that most examples will have on the environment. The intent of the resolution was not to look at the bulk of the many negligible minor exemptions. However, unless such a class or type is very carefully defined, some included actions may have serious environmental effects. The intent of the resolution was the desirability of looking at those actions which might have been inappropriately included since, as was pointed out in testimony submitted by the Environmental Center in support of the resolution, no satisfactory means are provided for identifying individual actions that were inappropriately included in an exempt class or type after the initial establishment of the class or type.

However your Committee feels that exempt actions are only one small aspect of the environmental impact statement requirements, and it is difficult to assess one segment of the rules and regulations of an Act without examining its relationship to the Act as a whole. Your Committee has therefore amended the resolution to request your Committee on Ecology, Environment and Recreation to conduct an interim hearing on the Act and on the rules and regulations and report its findings to the 1977 Legislature.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 327 as amended herein and recommends its adoption in the form attached hereto as S.R. No. 327, S.D. 1.

Signed by all members of the Committee.

SCRep. 728-76 Health on S.C.R. No. 93 and S.R. No. 373

The purpose of these resolutions is to obtain for the patient residents of Kalaupapa the assurance that they will be permitted to remain at the Settlement for as long as they may choose by establishing a State policy to this effect and requesting the Department of Health to evaluate the current level of health and other services provided the patients and submit a report to the 1977 session.

In testimony, the Department of Health is sympathetic to the wishes of the patient residents that they be permitted to live out the remainder of their lives in Kalaupapa, if they so choose. The department had reservations about the initial proposal to replace the existing non-conforming hospital with a comparable facility at an estimated cost in excess of three million dollars. However, they feel that a smaller and less costly facility designed to meet Skilled Nursing Facility standards would be adequate to serve the needs of those patients requiring extra care. Such a facility would make it unnecessary to transfer patients to another facility for care and treatment except in the most serious cases.

Accordingly, the Department of Health is proceeding with plans to design and build this alternative facility in the near future. This commitment, in itself, may be construed as a decision by the department to assure the patients at Kalaupapa that they will be permitted to remain at the Settlement for as long as they may choose.

Your Committee on Health concurs with the intent and purpose of S.C.R. 93 and

S.R. 373 and recommends their adoption.

Signed by all members of the Committee.

SCRep. 729-76 Legislative Management

Informing the Senate that Gov. Msg. Nos. 454 and 456 to 458 and Conf. Com. Rep. No. 1-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 730-76 Human Resources on H.C.R. No. 22

The purpose of this resolution is to urge favorable action by the U.S. Congress on U.S. House Bill 2522, which provides grants to "gateway" states with relatively large proportions of foreign immigrants. The social and financial impact of these alien immigrants demand an increasing amount of State resources.

Furthermore, your Committee finds that the State of Hawaii has responded to the best of its ability, while having to cope with the national trend of high inflation levels and rising unemployment. However, your Committee supports the position that the Federal Government, who has sole control over immigration policies, should assume a major responsibility for the costs entailed in alleviating problems related to immigrants.

Your Committee believes that the passage of U.S. House Bill 2522 would provide funds in the areas of education, health, housing, job training, orientation, and public assistance; therefore, the immigrant would be assisted in the orientation and transition processes.

Your Committee on Human Resources concurs with the intent and purpose of H.C.R. No. 22 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 731-76 (Majority) Judiciary on S.C.R. No. 92

The purpose of this concurrent resolution is to request the Office of the Legislative Reference Bureau to conduct a study on bingo, including the extent of its legalization in the United States, the legal controls on bingo in the other sister states, and the general experience of states which have had or currently have legalized bingo, and to report its findings and recommendations to the Legislature prior to the convening of the Regular Session of 1977. The study shall include a description of the alternative forms of bingo, problems experienced under the alternative forms, and possible methods of legalizing bingo in Hawaii. With respect to the study relating to the experience of other states, the findings shall include in terms of organized crime in bingo systems, and whether there is a pattern of the extension of bingo into legalization of other gambling forms, such as parimutuel betting.

Your Committee finds that bingo is a recreational game long enjoyed by people in a social context. People learn to play bingo as children, and it is a source of recreation for senior citizen organizations and a popular feature of armed services clubs. Your Committee further finds that many states, including New York, New Jersey, Maryland, Florida, Wisconsin, and others have legalized bingo, primarily as revenue raising mechanisms for churches and charitable organizations. Your Committee feels that legalization of bingo in Hawaii may aid in the provision of resources for charitable endeavors, thereby improving the quality of life in the State.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 92 and recommends its adoption.

Signed by all members of the Committee.

Senators Chong, George and Leopold did not concur.

SCRep. 732-76 Judiciary on S.R. No. 50

The purpose of this resolution is to request the Criminal Injuries Compensation Commission to review its procedure for "just compensation", its limitations upon award of compensation, and its eligibility rules and to report its findings and recommendations to the Senate sixty days before the convening of the Regular Session of 1977.

Pursuant to Chapter 351, Hawaii Revised Statutes, the Criminal Injuries Compensation

Commission has the power to compensate victims of crimes. There have been questions raised as to the procedure for "just compensation" and the maximum limitations of \$10,000 and as to the fairness of the eligibility requirements prescribed by law.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 50 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 733-76      Judiciary on S.R. No. 272

The purpose of this resolution is to request the Insurance Commissioner to review condominium unit fire and hazard insurance policies currently available through licensed insurers in this State, to determine which of such policies, if any, are designed and available to remedy the concerns expressed in this resolution, and to determine whether such policies should have minimum standardized coverage, and if necessary, to enact rules to remedy these concerns; and to report back to the Legislature twenty days prior to the convening of the Regular Session of 1977 with its findings, rules if any, and recommendations, if any, for legislation.

Your Committee finds that in many cases the condominium unit insurance policies do not cover the inner walls, floors, ceilings, cabinets, or other permanent attachments and fixtures of the condominium unit.

Your Committee further finds that investors who own condominium units have found it difficult to obtain any type of fire and hazard insurance coverage for their units, because many insurance companies will not issue such policies to cover condominium units which are rented, while similar policies for rented homes are readily available. The standard terms in condominium insurance policies for individual units vary markedly from insurance company to insurance company, as opposed to the statutory standardized form for homes, with some policies providing ample protection, and some not.

Your Committee feels that standardized condominium unit fire and hazard insurance coverage should be available on a wide scale to protect condominium unit owners, both resident and investor, and to protect not only personal property, but inner walls, floors, ceilings, cabinets, and other permanent attachments and fixtures of such condominium units.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 272 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 734-76      Judiciary on S.R. No. 277

The purpose of this resolution is to request the Insurance Commissioner to review and study the merits of "HO-76" standard homeowners fire insurance policy, and to report his findings and recommendations to the Legislature twenty days before the convening of the Regular Session of 1977.

To protect a condominium unit against fire losses, a condominium owner usually purchases a homeowners fire insurance policy. While it is advantageous to the consumer for the State to require a standardized homeowners fire insurance policy, the "New York 43" standard policy required by Section 431-420, Hawaii Revised Statutes, contains a surplusage of legal and technical language and terminology which renders the policy virtually incomprehensible to the average lay consumer, thereby defeating the purpose of a standardized policy.

Your Committee finds that "HO-76" is a new standardized homeowners fire insurance policy developed by the Insurance Services Office of New York, a research and advisory body that services the insurance industry, and is currently being tested in six states. "HO-76" offers generally the same coverage and price as "New York 43", contains approximately one-half the number of words, is simplified, printed in booklet form and organized in clearly defined sections under bold-faced headings, thus appearing to be eminently readable and understandable to the consumer.

Your Committee on Judiciary concurs intent and purpose of S.R. No. 277 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 735-76      Judiciary on H.B. No. 1441

The purpose of this bill is to prohibit the hunting, pursuing, capturing, taking, injuring, killing or possessing any game bird game mammal or wild bird at night on privately owned lands. "Night" means the period between onehalf hour after sunrise and onehalf hour before sunrise.

The bill provides that any person violating the provisions of this section shall be guilty of a misdemeanor. In addition, any hunting gear or other equipment, including any motor vehicle, used or possessed in violation of this section shall be subject to the seizure and forfeiture provisions of Section 187-16, Hawaii Revised Statutes.

Your Committee finds that night-hunting can be very dangerous, especially in view of the fact that a person may be shooting at another human being in the dark.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1441, H.D. 3 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 736-76      Judiciary on H.B. No. 2904-76

The purpose of this bill is to protect an employee who is required under the Hawaii Occupational Safety and Health Law to be trained and certified in first aid from civil damages when he renders first aid care in good faith, except when such damages result from his gross negligence or wanton acts or omissions.

Your Committee on Judiciary concurs with the findings of your Committee on Human Resources in Standing Committee Report No. 519-76.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2904-76, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 737-76      Judiciary on H.B. No. 3108-76

The purpose of this bill is to clarify the real estate commission's authority to promulgate rules and regulations to implement Chapter 514, Hawaii Revised Statutes, and to insure that supplemental rules and regulations adopted by the county councils do not conflict with said Chapter 514 or with any rules and regulations promulgated by the real estate commission.

The real estate commission has been promulgating rules governing horizontal property regimes, but it has done so under the implied authority of Sections 514-46, 514-48, and 514-50, Hawaii Revised Statutes. Your Committee feels that the commission should be explicitly authorized to promulgate such rules.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3108-76 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 738-76      (Majority) Judiciary on H.B. No. 331

The purpose of this bill is to strengthen the enforcement provisions of the compulsory insurance requirement of the no-fault automobile insurance law.

Under present law each county police department is authorized to issue citations for violations of the compulsory insurance requirement in a form and manner approved by the Violations Bureau of the District Court of the First Circuit. However, the Motor Vehicle Insurance Division has found that certain problems exist in the present law which hamper effective enforcement. One problem is that the present law does not specifically authorize police officers to demand production of proof of insurance from a motorist and does not require a motorist to present proof upon demand. Another problem is that the present laws do not provide adequate guidelines to the courts as to the appropriate penalty for violations. The bill addresses itself to these shortcomings in the present law.

Section 2 of the bill provides for issuance of insurance identification cards by each insurer to its insureds and for issuance of a certificate of self insurance by the commissioner

of motor vehicle insurance to self insureds.

Section 3 of the bill sets forth the procedures to be followed by district courts in handling violations of the compulsory insurance requirement. The courts are mandated to hear and dispose of such actions expeditiously and mandatory penalties are imposed. In all cases where an automobile is found to be not insured in conformity with the no-fault law, suspension or revocation and seizure of the vehicle registration plates, and suspension or revocation of the driver's license of the driver and registered owner of the automobile shall be mandatory.

Section 4 of the bill amends Section 286-116, Hawaii Revised Statutes, which requires driver's licenses to be carried at all times when operating a motor vehicle and to be displayed to a police officer upon demand, shall also include no-fault identification cards within the scope of said Section 286-116. A law enforcement officer shall issue a citation when he finds a motor vehicle in operation by a driver not in possession of an insurance identification card.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 331, 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.  
Senators O'Connor and Saiki did not concur.

SCRep. 739-76 (Majority) Judiciary on H.B. No. 1247

The purpose of this bill is to reinstate November 11 as Veterans' Day. Under existing law Veterans' Day is observed on the fourth Monday in October in the State of Hawaii.

Veteran's Day was observed originally as Armistice Day which marked the end of World War I on the eleventh hour of the eleventh day of the eleventh month. Armistice Day was significant for all veterans as a day to honor those who fought in defense of freedom for our country. Veterans' Day is a day set aside to commemorate those citizens who served in our armed forces. Until 1971 Veterans' Day was celebrated on November 11. In 1971 Congress enacted the Monday Holiday Act which set aside the fourth Monday in October as Veterans' Day.

Presently 47 states are observing Veterans' Day on November 11. The Hawaii State Veterans Council, composed of representatives of the Veterans of Foreign Wars; American Legion; Disabled American Veterans; Fleet Reserve Association; Filipino American Veterans Club; Pearl Harbor Survivor's Association; Hawaii Filipino Veterans Club; Military Intelligence Association; Retired Enlisted Association; Noncommissioned Officers Association; and the 1399th Engineers Veterans Club, testified in favor of changing the observance of Veterans' Day to November 11 of each year. Congress also restored Veterans' Day to the traditional date of November 11.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1247 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
Senators Ching and Kawasaki did not concur.

SCRep. 740-76 Judiciary on H.B. No. 1411

The purpose of this bill is to correlate the grounds for a separation from bed and board with the grounds for divorce, and to clarify the rights of parties who are separated under a decree of separation from bed and board to a divorce at a subsequent time.

This bill seeks to amend the existing law by adding a new Section (580-71.5) to provide a new ground for legal separation and to clarify the situation where a person may seek a divorce prior to the termination of a decree of legal separation. This new Section eliminates the problem that was created with reference to the grounds for granting a separation from bed and board when the grounds for divorce based on fault concept were eliminated in 1972 and the ground that the marriage is "irretrievably broken" was substituted. Since a separation from bed and board is less than a whole divorce, the marriage is not irretrievably broken but is disrupted.

This new Section also eliminates a possible defense for a person seeking a divorce following the entry of a decree of separation from bed and board. It is technically possible to argue or plead that a decree of separation settles all of the issues relating to the marriage

and its termination, so that a decree of divorce could only be granted following a decree of separation if some new grounds developed following the entry of the separation decree. The language proposed would eliminate this possible delaying tactic by providing that a decree of separation is not a bar for either party to obtain a divorce on events and facts occurring prior or subsequent to the entry of the separation decree.

At its bi-annual meeting held on March 12, 1976, the Board of Family Court Judges approved the intent and purpose of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1411 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 741-76      Judiciary on H.B. No. 1776

The purpose of this bill is to amend the existing law regarding residence and citizenship requirements to conform with the decisions rendered by the Hawaii Supreme Court, the United States Supreme Court and the Equal Opportunity Commission.

The United States Supreme Court ruled that duration of the three years residence requirement was a violation of the equal protection clause of the United States Constitution as it discriminates against those residents of less than three years duration. The Court also ruled that the requirement of United States citizenship for public employment is unconstitutional, but also provided that where there are positions which characteristics make it essential that the employees be citizens of the United States, the States could require citizenship.

This bill continues to require residence but without a durational period of such residence and permits also the requirement of citizenship for those positions considered essential to be occupied by citizens of the United States.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1776 and recommends that it pass Second Reading, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 742-76      (Majority) Judiciary on H.B. No. 2151-76

The purpose of this bill is to amend Section 831-3.2, Hawaii Revised Statutes, relating to the expungement of arrest records.

Section 831-3.2(a), Hawaii Revised Statutes, provides for the return of fingerprints and photographs to a person entitled to an expungement order, unless such person has a record of prior conviction or is a fugitive from justice, in which case the fingerprints and photographs may be retained by agencies holding such records. Section 831-3.2(c), Hawaii Revised Statutes, provides that upon issuance of an expungement order, all photographs and fingerprints shall be forwarded to the Attorney General for return to the person requesting them. Said Section 831-3.2(c) appears to conflict with said Section 831-3.2(a) since it requires the return of a person's photographs and fingerprints on issuance of an expungement order, whereas said Section 831-3.2(a) provides that a person's fingerprints and photographs may be retained by the holding agency if such person has a prior record of conviction or is a fugitive from justice. This bill clarifies this apparent conflict in the statutes by treating the return of fingerprints and photographs specifically under said Section 831-3.2(a) and providing that such records may be retained by the holding agency in cases where the person has a prior record of conviction or is a fugitive from justice.

This bill provides that a person who has been charged with, but not convicted of a crime may apply for an expungement order. In addition, this bill clarifies the question as to which agency of the State or county government is required to forward arrest records to the Attorney General under said Section 831-3.2(c) by specifically providing for any law enforcement agency of the State or county government.

Your Committee notes that there is typographical error in this bill. The bill cites Section 731-3.2, Hawaii Revised Statutes. The correct section is Section 831-3.2. Your Committee recommends that the revisor of statutes conform this bill to the correct section.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2151-76 and recommends that it pass Second Reading and be placed on the calendar for Third

Reading.

Signed by all members of the Committee. Senator Kawasaki did not concur.

SCRep. 743-76      Judiciary on H.B. No. 2224-76

The purpose of this bill is to require each industrial loan company issuing investment certificates under Chapter 408, Hawaii Revised Statutes, and debentures under Chapter 485, Hawaii Revised Statutes, to submit at its own expense a certified audit of its books and records by an independent certified public accountant ninety days of the close of its books, whether on a calendar or fiscal year basis.

Industrial loan companies, also known as finance companies operate under Chapter 408, Hawaii Revised Statutes.

There are two types of industrial loan companies operating in Hawaii:

1. Industrial loan companies soliciting funds from the general public by the sale and issuance of investment certificates.
2. Industrial loan companies which do not solicit funds from the general public except through the sale of capital stock of the company.

This bill will be applicable only to those industrial loan companies falling in the first category. There are 27 industrial loan companies in this group.

A certified audit of the books and records of an industrial loan company will be beneficial not only to the bank examiner but to the stockholders of the company, to management, and to investors and depositors in the company.

Financial statements increase the protection of investors and stockholders of the company by providing them with an evaluation of the financial condition of the company and its operations.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2224-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 744-76      Judiciary on H.B. No. 2231-76

The purpose of this bill is to amend the existing acupuncture and pest control laws by changing the renewal of licenses from an annual to a biennial basis.

Your Committee finds that the bill is necessary to provide conformity in the laws. During the 1975 session of the legislature, the laws relating to the various regulatory boards and commissions were amended to provide for biennial rather than annual renewal of licenses. However, due to oversight, there were certain technical defects in the renewal provisions relating to the laws regulating the practice of acupuncture and pest control.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2231-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 745-76      Judiciary on H.B. No. 2235-76

The purpose of this bill is to amend Section 710-1022, Hawaii Revised Statutes, to clarify the purpose and meaning of illegal promotion of prison contraband in the first degree.

Under existing law the task of describing an unapproved dangerous instrument is virtually impossible due to the fact that under proper circumstances nearly any article may constitute a dangerous instrument. Similarly, the task of defining an unapproved drug is extremely difficult.

Your Committee is in agreement that workable definitions for prison contraband are necessary. This bill proposes the definition of an unapproved dangerous instrument

be the same as that in Section 707-700(4), Hawaii Revised Statutes, and that a dangerous instrument may only be possessed by or conveyed to a confined person with the facility administrator's express prior approval.

Your Committee is also in agreement that the definition of a dangerous drug be the same as that in Section 712-1240(1), (2), (3), (5), (6), and (7), Hawaii Revised Statutes, and that a drug may be possessed or conveyed to a confined person with the facility administrator's express prior approval and under medical supervision.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2235-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 746-76      Judiciary on H.B. No. 2554-76

The purpose of this bill is to clarify the term "insurer" in Chapter 431, Hawaii Revised Statutes.

Under the current definition of "insurer", there is some ambiguity as to what persons engaged in the business of making contracts of insurance are to be included in the definition. The bill clarifies the definition by specifying that persons making contracts of insurance of the classes enumerated in Section 431-5, Hawaii Revised Statutes, are insurers.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2554-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 747-76      Judiciary on H.B. No. 2612-76

The purpose of this bill is to allow persons who recover damages from the real estate recovery fund to also recover court costs and fees as set by law and reasonable attorney fees as determined by the court.

Under existing law any person aggrieved by an act, representation, transaction or conduct of a duly licensed real estate broker or salesman upon grounds of fraud, misrepresentation or deceit may recover by court order from the real estate recovery fund an amount not more than \$10,000 for damages sustained by such fraud, misrepresentation or deceit. No specific statutory provisions provide for recovery of court costs and fees and attorney fees. This bill would allow recovery for these items of cost from the real estate recovery fund.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2612-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 748-76      Judiciary on H.B. No. 2613-76

The purpose of this bill is to allow persons who recover damages from the contractors recovery fund to also recover court costs and fees as set by law and reasonable attorney fees as determined by the court.

Under existing law any person aggrieved by an act, representation, transaction or conduct of a duly licensed contractor may recover by court order from the contractors recovery fund an amount not more than \$10,000 for damages sustained as a result of such act, representation, transaction or conduct. No specific statutory provisions provide for recovery of court costs and fees and attorney fees. This bill would allow recovery for these items of cost from the contractors recovery fund.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2613-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.



SCRep. 749-76      Judiciary on H.B. No. 2824-76

The purpose of this bill is to increase the maximum amount of insurance which may be written on the life of a debtor from \$10,000 to \$20,000.

Under existing law the amount of insurance on the life of a debtor is limited to his indebtedness or \$10,000, whichever is less. The \$10,000 limitation is no longer realistic in today's market conditions. Your Committee agrees that the \$10,000 limitation should be increased to \$20,000 with the continued application of the indebtedness limitation. This change in the law will benefit both debtors and creditors as credit life insurance provides an additional safeguard for both.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2824-76, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 750-76      Judiciary on H.B. No. 2878-76

The purpose of this bill is to amend Chapter 41, Hawaii Revised Statutes, to require that the Comptroller appoint a risk manager to supervise and direct the determination and treatment of all risk appertaining to the property, personnel, and operations of the State.

Under existing law the Comptroller has the responsibility of assessing the risk exposure of the State, obtaining insurance coverage for such risks, and formulating and directing a program to reduce risks. The provisions of this bill mandate the Comptroller to appoint a risk manager to carry out this responsibility. Because of the magnitude of the risk management program of the State, your Committee feels that the appointment of a full time, professional risk manager is necessary and will result in savings to the State.

Your Committee on Judiciary is in accord with the intent and purpose of H.B.No. 2878-76, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 751-76      Judiciary on H.B. No. 2891-76

The purpose of this bill is to authorize State agencies to serve notice of hearing of contested cases by either registered mail or certified mail or under certain circumstances, by publication.

Under Section 91-9, Hawaii Revised Statutes, all parties in any contested case must be afforded an opportunity for hearing after reasonable notice. However, no standards are set as to what constitutes "reasonable notice". Because of this the different boards and commissions within the Department of Regulatory Agencies have established different means of giving notice to parties. This bill sets forth a standard as to what constitutes reasonable notice in order to assure due process.

Under this bill parties must be given written notice of hearing by registered or certified mail with return receipt requested at least fifteen days before the hearing. Further, if the party refuses to accept service or cannot be located after reasonable and diligent inquiry, service by publication is authorized. Publication shall be made at least once in each of two successive weeks in a newspaper of general circulation with the last published notice appearing at least fifteen days prior to the date of hearing.

The bill further provides that if other laws provide for different methods of giving notice, such laws will control. For example, Chapter 269, Hawaii Revised Statutes, dealing with the Public Utilities Commission, specifically sets forth the procedure to be used in giving notice of hearings. Under this bill said Chapter 269 shall prevail.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2891-76, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 752-76      Judiciary on H.B. No. 2892-76

The purpose of this bill is to clarify the language of Section 449-5.5, Hawaii Revised Statutes, relating to the net capital requirements of a licensed escrow depository and Section 449-13, Hawaii Revised Statutes, relating to cancellation of bonds and insurance.

The present provisions of Section 449-5.5, Hawaii Revised Statutes, raises a question as to whether there is a difference between the capital requirements applicable to escrow depositories in operation on May 24, 1973 and those applicable to escrow depositories licensed after May 24, 1973. This is because of the fact that said Section specifies the words "capital stock", when referring to corporations licensed after May 24, 1973, and the words "paid-in capital" and "net paid-in capital" when referring to corporations licensed before May 24, 1973. This bill amends said Section so that the words, "net capital", are used throughout.

The bill also amends said Section 449-5.5 to clarify the requirements of the amount of net capital or bond needed to satisfy the requirements of said Section by specifying that a licensee in operation on May 24, 1973 with a net capital of less than \$50,000 shall increase its net capital to \$50,000 or file a bond for \$50,000, or take action so that a combination of its net capital and bond totals \$50,000 before May 24, 1978.

Section 2 of this bill amends Section 449-13, Hawaii Revised Statutes, relating to cancellation of bonds and insurance by deleting the reference to specific sections of the statute and substituting the words, "this chapter". This amendment will insure that all written cancellation or withdrawal notices shall be furnished to the bank examiner.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2892-76, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 753-76      Judiciary on H.B. No. 3040-76

The purpose of this bill is to amend the Hawaii Penal Code by adding a new section defining the offense of criminal contempt of a grand jury and making said offense a class C felony.

This bill provides that a person commits the offense of criminal contempt of a grand jury if he contumaciously and unlawfully refuses to be sworn as a witness before a grand jury or, when after having been sworn as a witness before a grand jury, he refuses to answer any legal and proper interrogatory.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3040-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 754-76      Judiciary on H.B. No. 3043-76

The purpose of this bill is to amend the existing law relating to service of process on a defendant in a civil action.

Your Committee is in agreement that the existing law relating to service of process upon a defendant who is unknown or does not reside within the State is inadequate. This bill requires that the plaintiff shall use due diligence in locating the defendant. If, after due diligence, defendant cannot be served with process within the State and the facts shall appear by affidavit to the satisfaction of the court, the court may order that service be made as provided by Section 634-24, Hawaii Revised Statutes, or by publication, as may be appropriate. The affidavit shall set forth facts based upon the personal knowledge of the affiant concerning the methods, means and attempts made to locate and effect personal service on the defendant and any other pertinent facts.

This bill also requires the same affidavit be used for services under Sections 634-24 and 634-25, Hawaii Revised Statutes. In the case of service by registered or certified mail with request for a return receipt, such service of summons shall be marked to be delivered to addressee only.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3043-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 755-76      Judiciary on H.B. No. 3095-76

The purpose of this bill is to deter and safeguard the public as well as the industrial loan industry from unlawful acts such as embezzlement and the receiving of illegal compensation that may be willfully committed by an officer, director or employee of an industrial loan company. This bill provides for a fine not to exceed \$10,000 for embezzlement and \$5,000 for receiving illegal compensation.

Under the existing law dealing with industrial loan companies there is no specific penalty for crimes dealing with embezzlement and receiving illegal compensation. Within the past five years there has been phenomenal growth within the industry and your Committee is in agreement that legislation is needed to deter unlawful acts such as embezzlement and the receiving of illegal compensation in order to safeguard the public as well as the industry.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3095-76, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 756-76      Judiciary on H.B. No. 3096-76

The purpose of this bill is to amend the existing industrial loan law by providing industrial loan companies with the specific power to sell or broker loans or contracts, in whole or in part, to other lenders, and to charge or retain a fee for the originating, selling, brokering, or servicing of such loans or contracts.

Presently it is a normal practice for lenders that are exempt from the Mortgage Brokers and Solicitors Act (Chapter 454, Hawaii Revised Statutes) to broker or sell loans to others. However, industrial loan companies, all of which are exempt from the Mortgage Brokers and Solicitors Act, lack the specific statutory authority to participate in this particular phase of the lending function. Your Committee feels that industrial loan companies should be specifically authorized by statute to engage in this lending function.

This bill also prohibits an industrial loan company from selling any loan to another person or company doing business in this State whenever such loans provide by contract for an interest rate greater than would be permissible under Section 478-3, Hawaii Revised Statutes, unless that person or company has the right to charge interest at the same rates and in the same amounts as permitted by law to industrial loan companies, and such loans are sold without recourse. Without this provision the industrial loan law could be circumvented in that unlicensed companies could purchase loans from industrial loan companies and, in effect, operate as industrial loan companies without the necessity of obtaining a license.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3096-76, 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 Senator Takitani.

SCRep. 757-76      Judiciary on H.B. No. 3099-76

The purpose of this bill is to clarify the duties of the Intake Service Center Advisory Board to assure better managerial control over intake service centers and to assure more flexibility in selecting candidates for positions of executive director and directors of intake service centers.

Act 179, Session Laws of Hawaii 1973, relating to the Implementation of the Hawaii Correctional Master Plan, authorized the creation of an Intake Service Center Advisory Board to advise the Governor on the policies and procedures for the operation of intake service centers (a vital element for carrying out programs of the Correctional Master Plan) and nominate for submission to the Governor the names of persons for vacant Intake Service Center director positions.

This bill provides as follows:

- (1) Expand the duties of the Board to include the recommendation of directions and priorities for the operation of intake service centers and to conduct at periodic intervals

a review of the performance of intake service centers.

(2) Permit the Board to recommend to the Governor for appointment one or more qualified candidates for each vacant intake service center director and executive director positions, instead of not less than three candidates as is previously the case. The Board will screen applicants for all intake service center positions and conceivably there may not be three qualified applicants for each position. This amendment will give the Board flexibility to submit to the Governor the names of qualified applicants.

(3) The director of the Oahu intake service center shall be the overall State executive director of all intake service centers and shall manage, control and direct them and provide periodic reports at least annually on their operations to the Governor and also the Intake Service Center Advisory Board. The existing law provides for directors for each county intake service centers but no overall executive director. The Oahu intake service center will be the largest and provide the most comprehensive services. This change should provide better centralized management for the centers and better accountability for their operations.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3099-76, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 758-76      Judiciary on H.B. No. 3110-76

The purpose of this bill is to strengthen the regulation of industrial loan companies in an orderly and equitable manner in order to protect depositors.

This is accomplished by your Committee by amending Hawaii's Industrial Loan Law, Chapter 408, Hawaii Revised Statutes, to: (1) increase the cash or security reserve; (2) place limits on affiliate (insider) transactions; (3) place limits on loans and investments involving a single obligor; (4) require collateral for certain loans; (5) place those responsible for the management of industrial loan companies under increased responsibility to protect the interests of depositors; and (6) empower the bank examiner to promulgate rules and regulations to improve administration of the law.

Industrial loan companies, commonly called finance companies, operate in much the same way that banks and savings and loan associations do. They receive substantial demand public deposits and put these funds to work by making loans. In recent years the public in Hawaii has come to regard industrial loan companies in much the same way it does banks and savings and loan associations. They are generally thought of as safe investments, although not insured. No substantial risk to funds deposited in such institutions is perceived.

However, risk to the depositor does exist. Recently, depositor losses have been averted only because of the willingness of a large bank to assume the deposit liabilities of a troubled finance company. Such a large scale acquisition obviously is not an adequate long term solution to the problem of protecting depositors. Moreover, such acquisitions tend to further extend the influence of already large financial institutions, something your Committee seeks to avoid.

Difficulties experienced by some industrial loan companies have been generally caused by three factors:

The first is the practice of making loans to parent companies or to other affiliates of the industrial loan company. There are no limits on such transactions by industrial loan companies. These transactions inherently involve more risk than normally occurs in an arm's length transaction with a third party. This is because the transaction is controlled and motivated from the borrower's rather than the lender's point of view. Large holding companies in Hawaii as elsewhere have established industrial loan companies as subsidiaries. These companies then receive public deposits and make loans to the parent or another of its subsidiaries. In this manner capital for various business ventures is raised. These holding companies have in effect used industrial loan companies as private banks.

The second cause of the present difficulties in the industrial loan industry is its recent explosive growth. At the end of 1969, industrial loan companies in Hawaii had \$104 million in public deposits. On June 30, 1975, this figure had nearly quadrupled to \$412 million. This rapid influx of deposits leads to hasty and as a result sometimes ill-advised management decisions concerning the advisability of particular loans. The

cumulative effect of many hurried loan decisions made at the height of this rapid influx of deposits is only now being fully experienced. Ill advised management decisions, of course, can be discovered by the bank examiner only after they have been made. At that point nothing can be done to reverse the transaction.

The third factor is the recent downturn in the real estate market. Although this downturn may be temporary, your Committee believes that the loan portfolio of industrial loan companies who have been quite strong in real estate lending must become subject to more stringent scrutiny and control.

Although they function much as banks and savings and loan associations do, industrial loan companies are subject to only three substantial controls. These include: (1) a requirement that there be \$100,000 in paid-in capital; (2) a requirement for a cash or security reserve equal to 4% of deposit liabilities; and (3) a requirement that its certificates and/or debentures (its deposits) not exceed ten times the company's paid-in capital. These requirements should be expanded. There are no limits on loans to affiliates, no limits on the amount which can be loaned to a single borrower, and no requirement for collateral on loans. Banks and savings and loan associations are under such limits.

Further, even where it can be shown that an industrial loan company does not meet an existing requirement, there is often little that can be done under existing law to remedy the situation. Companies get into difficulties over a considerable period of time as a result of a long series of poor management decisions. Once a company's security reserve or equity ratio is inadequate, for example, there is not very much that can be done by the regulators. What the company needs is cash. The ultimate tool of the bank examiner in dealing with unsafe companies is the appointment of a receiver. This drastic step, however, necessarily undermines public confidence in the institution. Even healthy institutions could not withstand the effects of such a step. Such action therefore may operate against the interests of depositors.

Your Committee through this bill establishes a series of reforms intended to insure that industrial loan companies are operated in a safe manner. These reforms are as follows:

(1) The security reserve is increased in two steps (Section 3). Five per cent of deposits in cash or securities is to be maintained by January 1, 1977. Seven per cent of short term deposits and five per cent of long term deposits in cash or securities is to be maintained by January 1, 1978. We believe these percentages are reasonable. The bill provides methods for computing the amount of the security reserve and empowers the bank examiner to order the companies to correct deficiencies.

(2) Limitations are established on loans to and investments in affiliate companies (Section 4). The bill requires approval of the bank examiner prior to new investments in affiliates. Existing investments must be reduced to no more than fifty per cent of capital and surplus over a six year timetable. The bill limits unsecured loans to affiliate companies to not more than 5 per cent of paid-up capital and surplus of the industrial loan company. The measure further requires that secured loans to affiliates be reduced to fifty per cent of capital and surplus over a six-year schedule. This section also requires that the Board of Directors of the industrial loan company approve any loan advance or extension of credit to any officer, director or beneficial owner of more than 10 per cent of the company. While not prohibiting insider transactions altogether, this provision significantly limits transactions motivated from the point of view of the borrower rather than that of the industrial loan company.

(3) Limitations are established on loans to or investments in any single person (Section 5). The bill limits investments in any single primary obligor to not more than 25 per cent of the capital and surplus of the industrial loan company. Unsecured loans to a single obligor are limited to not more than \$25,000 or five per cent of capital and surplus, and secured loans are limited to fifty per cent of capital and surplus except where secured by mortgages on real property. This provision will prohibit industrial loan companies from taking too much risk with any single borrower.

(4) Collateral requirements are established for certain loans (Section 6). The bill requires that loans which exceed \$25,000 be secured by collateral and that the loan not exceed ninety five per cent of the fair market value of the collateral. Affiliate loans may not exceed eighty per cent of the fair market value of the collateral. If the collateral is raw land the loan may not exceed seventy per cent of the fair market value of the land.

(5) Those directly involved in the management of industrial loan companies are placed under new and increased duties to protect the interests of their depositors (Section 7).

The bill provides that any officer, director or beneficial owner of more than 10 per cent of the outstanding stock of an industrial loan company who wilfully participates in or approves any transaction in violation of the chapter is subject to removal from office and to a fine not to exceed \$1,000 for each violation. This authority is necessary to insure that companies take those steps required to protect the interests of the depositors. As stated, receivership is simply no longer an adequate enforcement mechanism.

(6) Transactions involving minors. (Section 8). This bill also includes a measure which provides that minors may open and close thrift accounts in industrial loan companies and that such transactions will be binding notwithstanding the depositor's minority. Banks and savings and loan associations are governed by a similar provision.

The bill further provides that the bank examiner may promulgate rules and regulations necessary for the effective administration of Hawaii's Industrial Loan Company Act (Section 9).

Finally, the bill provides for a transition period during which companies in violation of the new requirements on the effective date of this Act can work toward meeting those requirements. Section 11 of the bill provides that companies shall within 180 days submit their financial plans for achieving compliance which shall be not later than December 31, 1978, except as otherwise provided in this Act.

Your Committee is in agreement that these controls on the industrial loan industry will not only protect the depositor but will also both strengthen the public confidence in this industry and strengthen the industry itself.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3110-76, H.D. 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 759-76      Judiciary on H.B. No. 3126-76

The purpose of this bill is to amend the "Sunshine Law" (Chapter 92, Hawaii Revised Statutes) in matters relating to (1) the definition of "board", (2) the changing of a board's agenda of a meeting, (3) the cost of reproducing public records, and (4) the applicability of the open meeting provisions to political subdivisions of the State.

The bill amends the following Sections in Chapter 92, Hawaii Revised Statutes:

(1) Section 92-2. This section has been amended to clarify the definition of "board" to make it clear that a board covered by the Sunshine Law is one which is created by the constitution, statute, rule, or executive order to have supervision, control, jurisdiction or advisory power over specific matters and which is required to conduct meetings and take official actions. Thus, under this amendment it would be clear that the Sunshine Law would be applicable to any agency, board, commission, authority or committee, which has an official existence with official functions and duties, as established pursuant to the constitution, statute, rule, or executive order.

(2) Section 92-7. Presently, this section provides that a board may change its agenda, once filed, in the appropriate offices, by adding items thereto at the meeting, by a two-thirds recorded vote of all members to which the board is entitled. Although experience has shown that there has not been any abuse of this provision by any board and the various boards have been informed that this provision should not be used to circumvent the spirit of the advanced notice requirements of the Sunshine Law, this amendment will clarify this point by requiring that no item can be placed on the agenda in this manner if it is of reasonably major importance and action thereon by the board will affect a significant number of persons. In such circumstances, under this amendment, the board should defer action on such matters until another meeting is scheduled with the matter placed on the agenda, as filed in the appropriate offices.

(3) Section 92-21. This section has been amended to provide that the cost of obtaining copies of public records shall be the reasonable cost of reproducing such copies, which cost shall include, among other things, labor cost, material cost, equipment cost, cost for certification, and other related costs. A minimum cost of twenty-five cents per page, sheet, or fraction thereof is established pursuant to this amendment, which compared to existing fees would seem to be lower and more reasonable. Under this amendment an agency may charge a higher cost for reproducing public records if it deems it necessary and reasonable. Such higher cost could be established through the rule-making procedure wherein a public hearing must be conducted in order to get the input and reaction of

the public.

(4) Section 92-51. This section has been amended to resolve any possible conflicts it may have with Section 92-21 since both sections cover the cost of reproducing public records. This amendment will delete any reference to the cost of copies of public records in Section 92-51 and clarify that Section 92-21 is the applicable section relating to cost of reproducing public records.

This bill further amends Chapter 92, Hawaii Revised Statutes, by adding a new section dealing with the applicability of various provisions of said Chapter to the political subdivisions of the State. This amendment provides that in the event that any political subdivision of the State has provisions relating to open meetings which are more stringent than Chapter 92, Hawaii Revised Statutes, then the more stringent provisions of the charter, ordinance, or otherwise, of the political subdivision shall apply. The purpose of this amendment is to clarify the fact that it was not the intent of the Legislature, in enacting the Sunshine Law, to unintentionally dilute the existing open meeting requirements of the various county charters and ordinances when they were, in fact, more stringent than those of the Sunshine Law.

The bill provides for an effective date of July 1, 1976, so that the agencies affected by these amendments, particularly the amendment relating to the cost of reproducing public records, will have some lead time to analyze and adjust to these changes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3126-76, H.D. ,1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 760-76 Human Resources on H.B. No. 2960-76

The purpose of this bill is to amend the law on overtime work, in order that regular employees not covered by collective bargaining agreement, be paid overtime work on the basis of one and one-half hours for each hour of overtime worked at their actual pay rate.

Your Committee finds that currently, the law provides that an employee whose pay rate is higher than the pay rate for SR-25-B shall be paid for overtime work on the basis of the SR-25-B pay rate. However, the law applies only to employees excluded from the collective bargaining units. Employees in a collective bargaining unit have the advantage of being paid for overtime work at their actual rate of pay up to and including salary range 28.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 2960-76 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 761-76 Legislative Management.

Informing the Senate that S.R. Nos. 440 to 443, Conf. Com. Rep. Nos. 2-76 to 41-76, Stand. Com. Rep. Nos. 730-76 to 760-76 and 762-76 to 836-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 762-76 Health on Gov. Msg. No. 135

Recommending that the Senate advise and consent to the nomination of JULIA KAUPU, to the State Advisory Council for Comprehensive Health Planning, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 763-76 Health on Gov. Msg. No. 136

Recommending that the Senate advise and consent to the nomination of REVEREND DAVID J. HARADA, to the State Advisory Council for Comprehensive Health Planning, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 764-76 Health on Gov. Msg. No. 137

Recommending that the Senate advise and consent to the nomination of ROBERT KUNICHIKA, to the State Advisory Council for Comprehensive Health Planning, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 765-76 Health on Gov. Msg. No. 138

Recommending that the Senate advise and consent to the nomination of FLOYD LOVING, to the State Advisory Council for Comprehensive Health Planning, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 766-76 Health on Gov. Msg. No. 139

Recommending that the Senate advise and consent to the nomination of KIMIE LANE, to the State Advisory Council for Comprehensive Health Planning, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 767-76 Health on Gov. Msg. No. 140

Recommending that the Senate advise and consent to the nomination of JOEL MAY, to the State Advisory Council for Comprehensive Health Planning, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 768-76 Health on Gov. Msg. No. 141

Recommending that the Senate advise and consent to the nomination of BARBARA DART, to the State Advisory Council for Comprehensive Health Planning, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 769-76 Health on Gov. Msg. No. 142

Recommending that the Senate advise and consent to the nomination of DR. Y.K. LOOK, to the State Advisory Council for Comprehensive Health Planning, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 770-76 Health on Gov. Msg. No. 143

Recommending that the Senate advise and consent to the nomination of A. DUANE BLACK, to the State Advisory Council for Comprehensive Health Planning, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 771-76 Health on Gov. Msg. No. 144

Recommending that the Senate advise and consent to the nomination of CHARLES L. KNOBEL, to the State Advisory Council for Comprehensive Health Planning, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 772-76 Health on Gov. Msg. No. 145

Recommending that the Senate advise and consent to the nomination of DR. RICHARD R. KELLEY, to the State Advisory Council for Comprehensive Health Planning, to serve at the Governor's pleasure.

Signed by all members of the Committee.



SCRep. 773-76 Health on Gov. Msg. No. 175

Recommending that the Senate advise and consent to the nomination of DR. ALBERT C.K. CHUN-HOON, to the Board of Medical Examiners, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 774-76 Health on Gov. Msg. No. 176

Recommending that the Senate advise and consent to the nomination of DR. REUBEN P. MALLARI, to the Board of Medical Examiners, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 775-76 Health on Gov. Msg. No. 177

Recommending that the Senate advise and consent to the nomination of ROBERTA M. CANSIBOG, to the Board of Health, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 776-76 Health on Gov. Msg. No. 178

Recommending that the Senate advise and consent to the nomination of SIDNEY S. KOSASA, to the Board of Health, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 777-76 Health on Gov. Msg. No. 179

Recommending that the Senate advise and consent to the nomination of FRED L. MARKHAM, to the Board of Health, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 778-76 Health on Gov. Msg. No. 180

Recommending that the Senate advise and consent to the nomination of ADELINO COITO, to the Board of Health, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 779-76 Health on Gov. Msg. No. 181

Recommending that the Senate advise and consent to the nomination of LORNA L. KLONINGER, to the Board of Health, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 780-76 Health on Gov. Msg. No. 278

Recommending that the Senate advise and consent to the nomination of SHONIRO YANO, to the County Hospital Management Advisory Committee, Hawaii County Hospital System, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 781-76 Health on Gov. Msg. No. 279

Recommending that the Senate advise and consent to the nomination of SUMIKO TANOUYE, to the County Hospital Management Advisory Committee, Hawaii County Hospital System, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 782-76 Health on Gov. Msg. No. 280

Recommending that the Senate advise and consent to the nomination of MATTHEW S.K. PYUN, JR., to the Advisory Committee on Drug Abuse and Controlled Substances, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 783-76 Health on Gov. Msg. No. 281

Recommending that the Senate advise and consent to the nomination of GUY V. PAUL, to the Advisory Committee on Drug Abuse and Controlled Substances, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 784-76 Health on Gov. Msg. No. 282

Recommending that the Senate advise and consent to the nomination of DR. NEAL WINN, to the Advisory Committee on Drug Abuse and Controlled Substances, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 785-76 Health on Gov. Msg. No. 283

Recommending that the Senate advise and consent to the nomination of J. DONALD HALL, to the Advisory Committee on Drug Abuse and Controlled Substances, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 786-76 Health on Gov. Msg. No. 284

Recommending that the Senate advise and consent to the nomination of MIKI ALONZO, to the Advisory Committee on Drug Abuse and Controlled Substances, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 787-76 Health on Gov. Msg. No. 285

Recommending that the Senate advise and consent to the nomination of DR. RAYMOND M. TANIGUCHI, to the Medical Advisory Board, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 788-76 Health on Gov. Msg. No. 286

Recommending that the Senate advise and consent to the nomination of DR. ROBERT LEE, JR., to the Medical Advisory Board, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 789-76 Health on Gov. Msg. No. 323

Recommending that the Senate advise and consent to the nomination of RICHARD W. SANTOS, to the State Planning and Advisory Council on Developmental Disabilities, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 790-76 Health on Gov. Msg. No. 327

Recommending that the Senate advise and consent to the nomination of EMIR N. BERG, to the State Planning and Advisory Council on Developmental Disabilities, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 791-76 Health on Gov. Msg. No. 329

Recommending that the Senate advise and consent to the nomination of ROBERT M. KAWAKONE, to the State Planning and Advisory Council on Developmental Disabilities, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 792-76 Health on Gov. Msg. Nos. 315, 316, 317, 318, 319, 320, 321, 322, 324, 325, 326, 328, 330, 331, 332, 333, 334, 335, 336, 337, 338 and 339.

Recommending that the Senate advise and consent to the nominations of LAMBERT K. WAI, KATHERINE D. GARDNER, MRS. CALLALYA HUDNALL, JOSEPH P. COOKE, JR., MELVIN M. SODETANI, ELDON W. MORRIS, E. EVELYN LAURETA, DR. JOHN C. MILNOR, AH NEE LEONG, VIOLET Z. KAM, DONNA M. SMYTHE, SHIRLEY J. KOLLMAYER, IAN W.J. EVANS, DANIEL D. ANDERSON, HON. GEORGE YUEN, HON. CHARLES G. CLARK, HON. ANDREW I.T. CHANG, DR. MERLE McPHERSON, GEORGE C. WILKINS, RUTH YOSHIOKA, KUNJI SAGARA, and GEORGE T. KAJIWARA, to the State Planning and Advisory Council on Developmental Disabilities, to serve at the Governor's pleasure.

Signed by all members of the Committee.

SCRep. 793-76 Education on Gov. Msg. Nos. 182, 183 and 184

Recommending that the Senate advise and consent to the nominations of KATHLEEN L. FERNANDEZ, LOUIS F. DeVIRGLIO and NATALIE A. CARDENAS, to the Library Advisory Commission, City and County of Honolulu, all terms to expire December 31, 1979.

Signed by all members of the Committee.

SCRep. 794-76 Education on Gov. Msg. Nos. 264, 265, 266, 267 and 268

Recommending that the Senate advise and consent to the nominations of ARLENE B. BOWMAN, KEI S. NAKAMURA, LYNNE SHIMAZU, CHITOSE KANUHA and SANDRA SHIROMA, to the Library Advisory Commission, County of Hawaii, all terms to expire December 31, 1979.

Signed by all members of the Committee.

SCRep. 795-76 Education on Gov. Msg. Nos. 269, 270, 271, 272, 273 and 274

Recommending that the Senate advise and consent to the nominations to the Library Advisory Commission, County of Maui, as follows:

STANLEY Y. OSHIMA, for term ending December 31, 1979;  
CARNATION N. NANOD, for term ending December 31, 1979;  
BARBARA LUPPOLD, for term ending December 31, 1979;  
G. JOETTE KELLEY, for term ending December 31, 1979;  
BARBARA F. KUSUDA, for term ending December 31, 1978; and  
KENICHI NAKATA, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 796-76 Education on Gov. Msg. Nos. 389, 390, 391 and 392

Recommending that the Senate advise and consent to the nominations to the Library Advisory Commission, County of Kauai, as follows:

ANGEL ALAYVILLA, for term ending December 31, 1979;  
YUKIO NAKAO, for term ending December 31, 1979;  
CAROL SANTOS, for term ending December 31, 1979; and  
MARINA PASCUA, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 797-76 Economic Development on Gov. Msg. No. 119

Recommending that the Senate advise and consent to the nomination of EIKO NAKAMA, to the Advisory Committee on Agricultural Products, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 798-76 Economic Development on Gov. Msg. No. 164

Recommending that the Senate advise and consent to the nomination of WILLIAM M. KOMODA, to the Pest Control Board, for term ending December 31, 1976.

Signed by all members of the Committee.

SCRep. 799-76 Economic Development on Gov. Msg. Nos. 165, 166 and 168

Recommending that the Senate advise and consent to the nominations of H. WAYNE HILTON, TEICHIRO TAO and PATRICK Y. NAKAGAWA, to the Advisory Committee on Pesticides, for terms ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 800-76 Economic Development on Gov. Msg. Nos. 221 and 222

Recommending that the Senate advise and consent to the nominations of ANDRE TATIBOUET and GERALD A. SUMIDA, to the Commission on the Year 2000, for terms ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 801-76 Economic Development on Gov. Msg. Nos. 255, 257, 258 and 259

Recommending that the Senate advise and consent to the nominations to the Commission on Population and the Hawaiian Future, as follows:

ROBERT C. SCHMITT, for term ending December 31, 1979;  
A. EDWARD KATO, for term ending December 31, 1979;  
YOLANDA LIANE, for term ending December 31, 1977; and  
JAMES L. BACON, for term ending December 31, 1976.

Signed by all members of the Committee.

SCRep. 802-76 Economic Development on Gov. Msg. Nos. 260, 261, 262 and 263

Recommending that the Senate advise and consent to the nominations to the Board of Planning and Economic Development, as follows:

EDWIN OTSUJI, for term ending December 31, 1979;  
RANDOLPH MOORE, for term ending December 31, 1979;  
HOWARD K. NAKAMURA, for term ending December 31, 1979; and  
LAWRENCE F. CHUN, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 803-76 Health on S.C.R. No. 46

The purpose of this Concurrent Resolution is to provide uninterrupted emergency services to the island of Molokai. The Governor and the Director of Health are to make special provisions to assure uninterrupted emergency service for Molokai in keeping with Section 27-21, HRS, and the State emergency medical service plan for the neighbor islands including the medical communications system (MEDICOM).

The Resolution proposes that the Department of Health assist the Board of Trustees of the Molokai General Hospital to establish equitable hospital rates to maximize federal reimbursements.

The Department of Health has already assisted the hospital in preparing a contract to provide ambulance service to Molokai from March 1, 1976, through June 30, 1976, with an option to extend on a month-to-month basis through June 30, 1977, subject to a Legislative appropriation being made.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 46 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 804-76 Health on S.C.R. No. 51

The purpose of this concurrent resolution is to develop and implement a new system to screen, review, and analyze CIP appropriation requests of private health facilities effective with the preparation of the 1977-79 biennial budget.

In order to provide adequate health services to the people of Hawaii, the Legislature has subsidized private hospitals. This subsidization includes funding for the construction of capital improvements. The public interest requires that subsidies be granted only

upon clear determination that public benefits will result from governmental support of private hospital improvements. To assist such determination, the Executive Budget Act covers all quasi-public institutions supported in whole or in part by State funds and requires that the essential information specified by section 37-69(d) (K), Hawaii Revised Statutes, be included in support of all CIP appropriations requests.

To date, the private health facilities CIP appropriation requests have been submitted directly to the Legislature for its consideration. This process completely by-passes the regular State administrative channel and is not subject to the requirements as specified in Chapter 37, the Executive Budget Act. To date the relevant information required by the legislature to adequately assess the merits of appropriation requests from private hospitals have not been provided.

The department of health, as the expending agency for State subsidies to private hospitals, and the department of budget and finance, as the central agency assigned by law to assure the availability of information needed for effective policy decision-making, are requested to implement a system for the screening, review and analysis of CIP appropriation requests of private health facilities to include the following:

- (1) The channeling to the department of health, for its screening, review and analysis, of all appropriation requests by private health facilities for the construction of facilities;
- (2) The monitoring by the department of budget and finance to assure that administration recommendations of capital investment in private health facilities are proposed only if they meet the tests of public interest, benefits which outweigh costs, and other compelling interests to justify state support; and
- (3) Incorporation of the analysis of the department of health, as overseen by the department of budget and finance, into executive budget project recommendations to the legislature, supported in all its details by the information required by the executive budget act, or where private hospital proposals are rejected, full documentation as to the reasons for their rejection.

In support of all executive budget recommendations for CIP subsidies to private health facilities, the department of health, monitored by the department of budget and finance, will include such relevant details as to (1) the effect which the new CIP proposals would have on hospital rates and other relevant considerations, (2) the effects if there were no state subsidies for the proposed construction, and (3) the public benefits which analysis demonstrates to be the consequences of state support.

The department of health, in consultation with the department of budget and finance, will apprise all private health facilities of its new system for considering CIP appropriation requests, effective with the cycle for processing requests for the 1977-79 biennial budget.

The Department of Health testified that the system proposed by this resolution is a step in the right direction that would facilitate legislative consideration and action.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 51, and recommends that it be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 805-76 (Majority) Health on S.R. No. 278

The purpose of this resolution is to bring into focus the often conflicting needs of patients and health care facilities and move toward a more satisfactory relationship between health care providers and consumers. This resolution calls upon the medical profession to develop statements of patient's rights and correlative responsibilities and to conform their policies and procedures to such statements.

The resolution grows out of the frustration and concern of a growing number of people for the need to enhance the dignity of the individual and accord him all possible respect in all aspects of health care and especially in health facilities where persons are particularly subject to great personal stress and anxiety. Your Committee wishes to emphasize that the failure to give sufficient information to patients often contributes to increasing their anxiety, fear and frustration thus interfering with recovery. Persons should be informed as to the foreseeability of risks inherent in various medical procedures, of alternatives to these procedures, and their medical needs in general. Furthermore, the resolution calls attention to the patient's right to confidentiality of records, access to records and reasonable response to specific requests and questions, explanations of billing and choice of physician where reasonably possible.

In addition, the resolution calls attention to correlative responsibilities of a patient to the medical profession including the regulations of health facilities, needed patient cooperation with medical personnel and cooperation in providing non-interrupted services to others.

Your Committee on Health concurs with the intent and purpose of S.R. No. 278 and recommends its adoption.

Signed by all members of the Committee. Senator Ching did not concur.

SCRep. 806-76 Health on S.R. No. 397

The purpose of this Resolution is to request the Department of Health to conduct a study to determine how a state-wide, community-based, residential program, based on a social rehabilitation or education model, might be developed and phased into the mental health care program of the State of Hawaii. The plan shall identify the target group of persons who would be best served by this program, determine the type and number of programs needed, develop a scheme to provide a continuum of alternatives to hospitalization and a timetable to decrease the resident population at Hawaii State Hospital and to develop an accurate cost-benefit statement for a period of five years.

Your Committee finds that this study is a necessary step in the development of a total program of treatment and care for persons suffering from emotional or social disabilities. Your Committee further finds that the development of such alternatives to hospitalization will be necessary as recent court decisions mandate a continuum of treatment facilities running from more to less restrictive situations.

Your Committee further finds that this study should be done prior to the next legislative session due to the need to make substantial policy decisions regarding the future of the State Hospital at Kaneohe.

Your Committee on Health concurs with the intent and purpose of S.R. No. 397 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 807-76 Ecology, Environment and Recreation on S.R. No. 193

The purpose of this resolution is to request the Department of Land and Natural Resources, in conjunction with the City and County Department of Parks and Recreation to study the feasibility of creating additional and adequate swimming and beach park facilities in the Hawaii Kai-Wailupe area.

Your Committee finds that although the Hawaii Kai-Wailupe area is one of the most rapidly growing areas on Oahu, there are a very limited number of beach areas and almost no good swimming areas in this section of Southeast Oahu. Swimming, picnicking and enjoying the beach are integral parts of life in Hawaii; yet residents of the Hawaii Kai-Wailupe community must drive long distances to find beach areas which they can enjoy. This consumes time, wastes fuel, and increases highway congestion. It would be desirable to conduct a study of the feasibility of creating additional and adequate swimming and beach park facilities in this area.

Your Committee has amended the resolution to correct the name of the Department of Parks and Recreation, City and County of Honolulu.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of this resolution, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 193, S. D. 1.

Signed by all members of the Committee.

SCRep. 808-76 Ecology, Environment and Recreation on S.R. No. 291

The purpose of this resolution is to request the Department of Parks and Recreation to report to the Senate Committee on Ecology, Environment and Recreation on the progress of the Kahana Valley park development and the status of other park projects.

Your Committee finds that the Legislature has long supported the preservation of Kahana Valley as a recreational and cultural resource and has appropriated funds during the Regular Sessions of 1967, 1968, 1969, and 1970 for acquisition of Kahana Valley in fee simple and entrusted development of a park to the Department of Land and Natural

Resources.

The Hui Malama Aina O Kahana has done extensive research on Kahana Valley and has prepared a general plan for development of a "Native Hawaiian Lifestyle Living Park." It is the intent of the Legislature that the Konohiki should work both with the Hui Malama Aina O Kahana and the Hui O Kanani O Kahana, and that plans and development of the valley should include input from both hui.

It is also the intent of the Legislature that the members of Hui Malama Aina O Kahana be encouraged to join the Hui O Kanani O Kahana to facilitate the mutual working out of concerns.

Your Committee has amended the resolution to recognize the efforts and contributions of Hui Malama Aina O Kahana.

Your Committee has further amended the resolution to request that the report be submitted to the Legislature prior to the Regular Session of 1977 and that it include guidelines and priorities in terms of who should live in the valley, including not only people who are now living there, but also ohana of original residents of the valley.

Additionally, your Committee has amended the agency from Department of Parks and Recreation to Department of Land and Natural Resources, Division of State Parks, and has requested that the report include recommendations for any necessary statutory changes and that it include the status of all other state park and historic preservation projects.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 291, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 291, S.D. 1.

Signed by all members of the Committee.

SCRep. 809-76 Ecology, Environment and Recreation on S.R. No. 313

The purpose of this resolution is to request the Department of Land and Natural Resources to include the Castle Trail System and related areas in Punaluu and Kaliuwaa Valley and the upper Kaluanui Stream in the statewide trail and access system, Na Ala Hele, acquiring where necessary, public access through easements, rights-of-ways or land acquisition.

Castle Trail leads to the Koolau Summit Trail, which is a prime component of the statewide trail system. The Koolau Summit Trail travels 20 miles along the Koolau Summit from Puu Kauai above Kahuku to past Puu Kaaumakua above Waikane. Your Committee finds that there is no trail to the Koolau Summit over which the public can legally pass without securing some combination of private and federal permission, and only six of the nine access trails are accessible with such permission. Of all the possible trails, Castle Trail is the best located to give access from the Windward side to the upper Summit Trail System. In addition to its access value, the Castle Trail is spectacular in its own right.

The Department of Land and Natural Resources in testifying at a public hearing on this resolution, stated that the Castle Trail, including areas in Punaluu and Kaliuwaa Valleys and upper Kaluanui Stream will certainly be considered as part of the Trail and Access System Study and it will be given high priority for obtaining the necessary public access to the trail and trail rights-of-way.

It is the intent of your Committee that in the implementing of this resolution no action be taken which will influence any current litigation and your Committee has amended the resolution to clarify this intent.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 313 as amended herein and recommends its adoption in the form attached hereto as S.R. No. 313, S.D. 1.

Signed by all members of the Committee.

SCRep. 810-76 Ecology, Environment and Recreation on H.C.R. No. 38

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources to include the Castle Trail System and related areas in Punaluu and Kaliuwaa Valley and the upper Kaluanui Stream in the statewide trail and access system, Na Ala Hele, acquiring where necessary, public access through easements, rights-of-ways

or land acquisition.

Castle Trail leads to the Koolau Summit Trail, which is a prime component of the statewide trail system. The Koolau Summit Trail travels 20 miles along the Koolau Summit from Puu Kauai above Kahuku to past Puu Kaaumakua above Waikane. Your Committee finds that there is no trail to the Koolau Summit over which the public can legally pass without securing some combination of private and federal permission, and only six of the nine access trails are accessible with such permission. Of all the possible trails, Castle Trail is the best located to give access from the windward side to the upper Summit Trail System. In addition to its access value, the Castle Trail is spectacular in its own right.

The Department of Land and Natural Resources in testifying at a public hearing on this resolution, stated that the Castle Trail, including areas in Punaluu and Kaliuwaa Valleys and upper Kaluanui Stream will certainly be considered as part of the Trail and Access System Study and it will be given high priority for obtaining the necessary public access to the trail and trail rights-of-ways.

It is the intent of your Committee that in the implementing of this resolution no action be taken which will influence any current litigation and your Committee has amended the resolution to clarify this intent. Your Committee has further amended the concurrent resolution to make some corrections in punctuation.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of H.C.R. No. 38 as amended herein and recommends its adoption in the form attached hereto as H.C.R. No. 38, S.D. 1.

Signed by all members of the Committee.

SCRep. 811-76 Ecology, Environment and Recreation on H.C.R. No. 87

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources to submit a report on its progress in developing a cultural-recreational park at Kahana Valley, such report to include a description of the work completed or in progress, problems in implementation of the intent of the Legislature, the sufficiency of funds to complete its work, and other matters.

Your Committee finds that the Legislature has long supported the preservation of Kahana Valley as a recreational and cultural resource and has appropriated funds during the Regular Sessions of 1967, 1968, 1969, and 1970 for acquisition of Kahana Valley in fee simple and entrusted development of a park to the Department of Land and Natural Resources.

The Hui Malama Aina O Kahana had done extensive research on Kahana Valley and has prepared a general plan for development of a "Native Hawaiian Lifestyle Living Park." It is the intent of the Legislature that the Konohiki should work both with the Hui Malama Aina O Kahana and the Hui O Kanani O Kahana, and that plans and development of the valley should include input from both hui.

It is also the intent of the Legislature that the members of Hui Malama Aina O Kahana be encouraged to join the Hui O Kanani O Kahana to facilitate the mutual working out of concerns.

Your Committee has amended the concurrent resolution to recognize the efforts and contributions of the Hui Malama Aina O Kahana.

Your Committee has further amended the concurrent resolution to request that the report include guidelines and priorities in terms of who should live in the valley, including not only people who are now living there, but also ohana of original residents of the valley.

Your Committee has further amended the resolution to request that the report include recommendations for any necessary statutory changes.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of H.C.R. No. 87, as amended herein and recommends its adoption in the form attached hereto as H.C.R. No. 87, S.D. 1.

Signed by all members of the Committee.



SCRep. 812-76 Education on S.C.R. No. 71

The purpose of this resolution is to request a feasibility study and site selection for a Windward community cultural center.

The need for a community cultural center for Windward Oahu was amply demonstrated through testimony presented before the Committee. At present, there is no facility available where cultural events may be offered. Your Committee has therefore recognized that such a need exists and wishes to lend its support to the development of one.

The resolution requested that a feasibility study and site selection be conducted by the Comptroller of the State of Hawaii. However, the Comptroller informed the Committee that there is presently no State agency that handles or is prepared to handle the operation of such a facility. The Blaisdell Memorial Center, for example, is operated by the City and County of Honolulu. The Comptroller further indicated that it would be extremely difficult to conduct a feasibility study when the operating agency is not known.

Your Committee has therefore amended the resolution to request that the Mayor and Council of the City and County of Honolulu through its appropriate county agencies undertake the feasibility study and site selection for a cultural center for Windward Oahu.

The Committee noted also the large number of citizen and cultural groups on the windward side of Oahu who have suggestions to make as to the needs which the facility must fill. Your Committee therefore wishes to alert the Mayor and Council of the City and County of Honolulu and their appropriate agencies to the existence of these groups that their input might be achieved.

A further amendment was made to allow certified copies of the resolution to be sent to the Mayor and the Council of the City and County of Honolulu.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 71 as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 71, S.D. 1.

Signed by all members of the Committee.

SCRep. 813-76 Education on S.C.R. No. 78

The purpose of this resolution is to evaluate Project RISE at Aiea High School in terms of its concepts and strategies and determining its applicability to schools with similar problems.

Project RISE at Aiea High School has shown itself to be effective in helping students who are experiencing some degree of alienation within the social milieu of school and society. Through counseling and teaching, students have been taught and have learned to deal with their problems, with the difficulties posed by cross-cultural interactions, and with other life experiences.

As a result, these students have become positive contributing forces within their school, the students are now able to take advantage of the educational opportunities offered them, and there has been a decrease in the level of incidents of violence at Aiea High School.

Your Committee is desirous that some of the factors that have made Project RISE a success be determined so that this information might be shared among other secondary schools within the public school system.

Your Committee has amended the concurrent resolution by adding the phrase "the House of Representatives concurring" to the first "Be It Resolved" clause.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 78, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 78, S.D. 1.

Signed by all members of the Committee.

SCRep. 814-76 Education on S.R. No. 262

The purpose of this resolution is to request that the Board of Education consider increasing the number of secondary schools that presently offer the Junior ROTC program.

Testimony received by the Committee from students in the JROTC program, from parents, from JROTC instructors, and from school principals indicated interest in the expansion of this program.

Your Committee has amended the second "Whereas" clause by changing the word "need" to "a desire". This change in phrasing more accurately represents the wording of the Department of Education study cited.

Your Committee on Education concurs with the intent and purpose of S.R. No. 262 as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 262, S.D. 1.

Signed by all members of the Committee.

SCRep. 815-76 Education on S.R. No. 289

The purpose of this resolution is to request a feasibility study and site selection for a Windward community cultural center.

The need for a community cultural center for Windward Oahu was amply demonstrated through testimony presented before the Committee. At present, there is no facility available where cultural events may be offered. Your Committee has therefore recognized that such a need exists and wishes to lend its support to the development of one.

The resolution requested that a feasibility study and site selection be conducted by the Comptroller of the State of Hawaii.

However, the comptroller informed the Committee that there is presently no State agency that handles or is prepared to handle the operation of such a facility. The Blaisdell Memorial Center, for example, is operated by the City and County of Honolulu. The comptroller further indicated that it would be extremely difficult to conduct a feasibility study when the operating agency is not known.

Your Committee has therefore amended the resolution to request that the Mayor and Council of the City and County of Honolulu through its appropriate county agencies undertake the feasibility study and site selection for a cultural center for Windward Oahu.

The Committee noted also the large number of citizen and cultural groups on the windward side of Oahu who have suggestions to make as to the needs which the facility must fill. Your Committee therefore wishes to alert the Mayor and Council of the City and County of Hawaii and their appropriate agencies to the existence of these groups that their input might be achieved.

A further amendment was made to allow certified copies of the resolution to be sent to the Mayor and the Council of the City and County of Honolulu.

Your Committee on Education concurs with the intent and purpose of S.R. No. 289 as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 289, S.D. 1.

Signed by all members of the Committee.

SCRep. 816-76 Education on S.R. No. 317

The purpose of this resolution is to evaluate Project RISE at Aiea High School in terms of its concepts and strategies and determining its applicability to schools with similar problems.

Project RISE at Aiea High School has shown itself to be effective in helping students who are experiencing some degree of alienation within the social milieu of school and society. Through counseling and teaching, students have been taught and have learned to deal with their problems, with the difficulties posed by cross-cultural interactions, and with other life experiences.

As a result, these students have become positive contributing forces within their school, the students are now able to take advantage of the educational opportunities offered them, and there has been a decrease in the level of incidents of violence at Aiea High School.

Your Committee is desirous that some of the factors that have made Project RISE a success

be determined so that this information might be shared among other secondary schools within the public school system.

Your Committee on Education concurs with the intent and purpose of S.R. No. 317 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 817-76 Education on H.C.R. No. 58

The purpose of this resolution is to allow the Royal Guardsmen use of Iolani Barracks for the storage of their uniforms and equipment.

It is the belief of your Committee that the storage of Royal Guardsmen equipment within Iolani Barracks would be a very appropriate act and one that would enhance the Barracks.

Your Committee on Education therefore concurs with the intent and purpose of H.C.R. No. 58 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 818-76 Economic Development on H.C.R. No. 37

The purpose of this Resolution is to have the Humpback Whale, a mammal indigenous to the State of Hawaii, named as Hawaii's marine animal.

Your Committee has received testimony on this Resolution, and agrees that the designation of the Humpback Whale as the State Marine Mammal would serve historical as well as conservation purposes. Your Committee finds that such recognition would call attention to this endangered species, thereby providing an additional impediment to the destruction of these whales by the whaling industries of other countries. Your Committee further finds that the Humpback Whale is of historical significance, dating back to King Kamehameha's era, and of scientific interest since it migrates to Hawaiian waters to mate and calve.

Your Committee on Economic Development is in accord with the intent and purpose of H.C.R. No. 37 and recommends its adoption.

Signed by all members of the Committee except Senator King.

SCRep. 819-76 Economic Development on H.C.R. No. 39

The purpose of this Concurrent Resolution is to request the Director of the Department of Land and Natural Resources to consult with the officials of the County of Hawaii in the formulation of plans and to drill exploratory deep water wells on State lands at Lalamilo in the South Kohala district, Island of Hawaii.

Your Committee finds that water is a key to the orderly and planned growth of the South Kohala District. It is only with an adequate supply of water that the proper and planned mixture of residential, agricultural, commercial and resort activities can occur in that area. South Kohala's economic stability and diversity hinge on a variety of dependable sources of water insuring a year round supply.

At present, South Kohala's water needs depend largely on a variety of surface sources. Future plans for water resource development also appear to rely heavily on surface water. However, some recent success has been experienced in the development of deep water wells at Waikoloa serving costal areas. Your Committee feels that the drilling of exploratory wells by the State in lands at Lalamilo will assist the citizens of South Kohala in defining the alternatives open to them.

Your Committee on Economic Development concurs with the intent and purpose of H.C.R. No. 39 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 820-76 Economic Development on H.C.R. No. 66

The purpose of this Resolution is to request Matson Navigation Company and the Federal Maritime Commission to exempt all fresh and processed Hawaiian agricultural products from increases in ocean freight rates in the U.S. Pacific/ Hawaiian Domestic Offshore Trade, such rates having been suspended to April 7, 1976. The Resolution further requests

the Attorney General to oppose any increase in rates in this trade area on fresh and processed Hawaiian agricultural products.

In public hearing, your Committee heard concern voiced over the effects of increased surface freight rates on eastbound agricultural export products. A more favorable rate structure would be a positive step toward encouraging the expansion of our diversified agricultural industry by placing Hawaiian agricultural products on a more competitive footing with Mainland products.

Your Committee finds further that the Federal Maritime Commission has expressed its desire for a State policy on the transportation of agricultural products. The State Department of Agriculture supports the development of a favorable rate structure for the eastbound movement of Hawaiian agricultural products. In view of the Legislature's longstanding commitment to diversified agriculture in the State of Hawaii, the support of the Legislature regarding this matter would further strengthen this commitment.

Your Committee on Economic Development concurs with the intent and purpose of H.C.R. No. 66 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 821-76 Economic Development on S.C.R. No. 64

The purpose of this Concurrent Resolution is to request the Fish and Wildlife Service, U.S. Department of the Interior, to give serious consideration toward permitting the controlled harvest of the marine fishery resources of the Northwestern Hawaiian Islands.

In a public hearing, your Committee learned that the Department of Land and Natural Resources, through discussions with commercial fishermen who have fished in the waters, acknowledges the vast fishery potential which exists in the area. The Department further recognizes that, due to the unique fauna and flora of the area, rational use must be made of the marine resources to protect and preserve the existing ecosystems. Consequently, the Department has been coordinating with the Naional Marine Fisheries Service and the Fish and Wildlife Service of the Federal Government, the Marine Affairs Coordinator, and the Hawaii Institute of Marine Biology in the planning of an assessment of the marine resources of the Northwestern Hawaiian Islands in order to formulate a comprehensive management scheme. A preliminary survey of the area is scheduled for May, 1976, to gather information needed to develop the assessment program.

Your Committee believes, with the concurrence of the Department of Land and Natural Resources, there is much merit in implementing a controlled commercial fishery under a permit system for the Northwestern Hawaiian Islands as proposed by this Resolution. Such a system will make possible the gathering of vitally needed information rapidly and in quantity at the lowest possible cost to the State.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 64 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 822-76 Economic Development on S.C.R. No. 98

The purpose of this Concurrent Resolution is to request the College of Tropical Agriculture to conduct appropriate laboratory tests of the various commodities produced in Hawaii which may be stored and transported under hypobaric conditions.

In public hearing, your Committee learned that the revolutionary hypobaric storage system extends the useful life of meat, fish, poultry, shrimp, vegetables, fruit, cut flowers, potted plants, cuttings, and other metabolically active matter.

The feasibility of using hypobaric storage for preservation of certain perishable commodities in storage and transportation has been demonstrated by Grumman Allied Industries, Inc. as well as by scientists in research laboratories on the Mainland. However, only a limited number of tropical and subtropical crops have been subjected to this method of storage. Therefore, the effect of hypobaric storage as shelf life extension of local perishable commodities should be investigated, particularly for those commodities which are exported.

Your Committee believes that due to Hawaii's insular nature and total dependence on sea and air transportation, Hawaii would greatly benefit from the usage of the hypobaric system by substantial savings to both the producers of Hawaiian agricultural products

in operational and shipping costs and the consumer through reduced costs of imports into Hawaii.

Your Committee further feels that the College of Tropical Agriculture, University of Hawaii, has the necessary technical expertise to determine and develop hypobaric control data on perishable commodities produced in Hawaii.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 98 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 823-76 Economic Development on S.C.R. No. 112

The purpose of this Resolution is to request the executive branch to enter into discussions with visitor industry members for the purpose of seeking solutions to the common problem of overbooking. To this end, the Resolution proposes the creation of a Special Committee on Accommodations to include representatives from State agencies and the visitor industry.

Your Committee finds that the occurrence of incidents in which a visitor to Hawaii is denied accommodations in a hotel for which a reservation has been obtained prior to arrival adversely affects the Hawaii visitor industry, and thus, the economic well-being of the entire State. The Governor's Tourism Planning Advisory Committee estimates that the number of visitors to Hawaii is increasing at an annual rate of 5.5% or an expected 4.7 million visitors in 1985. As the number of visitors increases, so too may the number of incidents of denied accommodations. Inasmuch as such incidents are an outgrowth of the complex interaction of the methods of operation of the hotel, tour operators, and the airlines serving the industry, your Committee feels that the creation of a Special Committee on Accommodations is essential to the development of an understanding of these complex interactions and the entire overbooking problem in the State.

Your Committee finds that a Special Committee on Accommodations composed of the following members: one representative from the Department of Planning and Economic Development, one representative from the Office of Consumer Protection, one representative from the Hawaii Visitors Bureau's Department of Visitor Satisfaction, one representative from the Hawaii Hotel Association, one representative from the airline industry, two representatives from the hotel industry, and two representatives from wholesale travel agencies, afford the committee the widest possible input from all facets of this complex problem. The Special Committee on Accommodations will discuss, in general terms, and advise the Director of Planning and Economic Development on methods of resolving the overbooking problem in Hawaii.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 112 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 824-76 Economic Development on S.R. No. 244

The purpose of this Resolution is to request that the City and County of Honolulu's Department of General Planning conduct a study of Manoa Valley. This study would include, but not be limited to, determining land use, building density, places of scenic and historical value, and compatibility with the environment. In addition, this study would determine whether a special design district should be established for the entire Manoa Valley area.

Your Committee finds that a large percentage of the residents in Manoa Valley would like to maintain the residential characteristics of the valley. Furthermore, in face of the desire by some to construct shopping centers and large condominiums in Manoa, and because the City and County is currently reevaluating the General Plan for the Lower Manoa area, your Committee believes that it would be most prudent for the Planning Department of the City and County of Honolulu to extend their reevaluation for the entire Manoa Valley region.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 244, S.D. 1 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 825-76 Economic Development on S.R. No. 257

The purpose of this Resolution is to request the Fish and Wildlife Service, U.S. Depart-

ment of the Interior, to give serious consideration toward permitting the controlled harvest of the marine fishery resources of the Northwestern Hawaiian Islands.

In a public hearing, your Committee learned that the Department of Land and Natural Resources, through discussions with commercial fishermen who have fished in the waters, acknowledges the vast fishery potential which exists in the area. The Department further recognizes that, due to the unique fauna and flora of the area, rational use must be made of the marine resources to protect and preserve the existing ecosystems. Consequently, the Department has been coordinating with the National Marine Fisheries Service and the Fish and Wildlife Service of the Federal Government, the Marine Affairs Coordinator, and the Hawaii Institute of Marine Biology in the planning of an assessment of the marine resources of the Northwestern Hawaiian Islands in order to formulate a comprehensive management scheme. A preliminary survey of the area is scheduled for May, 1976, to gather information needed to develop the assessment program.

Your Committee believes, with the concurrence of the Department of Land and Natural Resources, there is much merit in implementing a controlled commercial fishery under a permit system for the Northwestern Hawaiian Islands as proposed by this Resolution. Such a system will make possible the gathering of vitally needed information rapidly and in quantity at the lowest possible cost to the State.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 257 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 826-76 Economic Development on S.R. No. 299

The purpose of this Resolution is to request the Governor of Hawaii, the Mayor of the County of Kauai, the Board of Land and Natural Resources, and the Board of Agriculture to take actions necessary to preserve agricultural lands at Kilauea, Kauai. This Resolution further requests that the State lease these lands at agriculturally reasonable rates for lengths of time sufficiently long to permit lessees to secure necessary credit and financing.

Your Committee in public hearing found that the Governor has indicated his intention of condemning the Kilauea agricultural lands for an agricultural park as outlined in "Conceptual Master Plan: Kilauea Agricultural Park". Your Committee also learned that the State and County of Kauai agricultural goals are presently threatened by requests for subdivisions for development purposes. Inasmuch as your Committee feels that such subdivision at this time would so fragment prime agriculture lands as to render them unusable for economically feasible agricultural purposes, the endorsement of the preservation of the Kilauea agricultural lands is both essential and timely.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 299 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 827-76 Economic Development on S.R. No. 301

The purpose of this Resolution is to request the Department of Agriculture to review, investigate, and determine the desirability and efficacy of a special agricultural water rate, and to report its findings and recommendations to the Legislature twenty days before the convening of the Regular Session of 1977.

Your Committee finds that the availability of low cost water is essential if agriculture is to be developed into one of the main bases of the economy of this State. Considerable growth has occurred in plant nursery, anthurium growing, vegetable production, livestock production, and in field crops, all of which require large quantities of low cost water if they are to remain viable.

With the rapid increase in urbanization and the resulting increased demand on Oahu's water resources and delivery system, the Board of Water Supply has undertaken a large and expensive capital improvements program to provide new sources of water and a more efficient delivery system. This expansion, coupled with rising labor and operational costs, has resulted in several increases in the water rates. While the increases may not seem large to the average urban user, they amount to substantial increases to the average farmer. At the present time, the farmer is charged the same rate as applied to the urban consumer.

Your Committee on Economic Development concurs with the intent and purpose of

S.R. No. 301 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 828-76 Economic Development on S.R. No. 320

The purpose of this Resolution is to request the United States Department of Agriculture, the Agricultural Marketing Service, and the Bureau of Labor Statistics to reform their reporting of, and commentary on, food and commodity prices, and of the cost of living index, so as to equitably reflect, in addition to those costs directly attributable to the producing farmers, the various other costs components attributable to food processors, transport and warehousemen, retail food chain stores, and other "middlemen".

The agricultural community of Hawaii feels that the present method of reporting price increases does not correctly reflect the increases in the prices paid to farmers. The proposed changes in the method of reporting would more accurately reflect the changes in the prices paid to farmers.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 320 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 829-76 Economic Development on S.R. No. 321

The purpose of this Resolution is to request the Legislature to endorse and support the free and unfettered sale of American and Hawaiian farm products to nations overseas.

In public hearing, your Committee found that American and Hawaiian products often face unduly strict and sometimes illegal trade and tariff barriers by foreign countries. A case in point is the import quotas on processed food products imposed by the Japanese Government which is in direct violation of the General Agreement on Trade and Tariffs of which all free world countries are signatories. The other major trade barrier is the variable levy system imposed by the European Common Market which arbitrarily limits the imports of American products.

Your Committee believes that in order to realize the full potential of both American and Hawaiian agricultural production, removal of existing limitations, which serve to halt the growth of the industry, must be strongly sanctioned. In addition, your Committee believes that further expansion of overseas trade would not only benefit foreign markets but would also serve to stimulate advanced farm production and techniques in the U.S.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 321 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 830-76 Economic Development on S.R. No. 339

The purpose of this Resolution is to request that the College of Tropical Agriculture of the University of Hawaii, the United States Department of Agriculture, the State Department of Agriculture, and the State Department of Planning and Economic Development institute study and research on new methods of fumigation and treatment processes for fresh papaya to reduce costs.

Your Committee realizes that the return for production of this product for the mainland market is more promising, and that the \$6,000,000 gross income at wholesale is an indication of the industry's remarkable expansion in 1975. Furthermore, your Committee finds that the greatest limitation to an ever increasing expansion of this crop is high cost of the fumigation process of all exported papaya, of which only two existing methods are approved.

Your Committee feels that to allow the expansion of this crop to its full potential, there is a need for application of a simpler and less costly fumigation method which will lower costs and make possible expansion into other crops for export.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 339 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 831-76 Economic Development on S.R. No. 380

The purpose of this Resolution is to request the College of Tropical Agriculture to conduct appropriate laboratory tests of the various commodities produced in Hawaii which may be stored and transported under hypobaric conditions.

In public hearing, your Committee learned that the revolutionary hypobaric storage system extends the useful life of meat, fish, poultry, shrimp, vegetables, fruit, cut flowers, potted plants, cuttings, and other metabolically active matter.

The feasibility of using hypobaric storage for preservation of certain perishable commodities in storage and transportation has been demonstrated by Grumman Allied Industries, Inc. as well as by scientists in research laboratories on the Mainland. However, only a limited number of tropical and subtropical crops have been subjected to this method of storage. Therefore, the effect of hypobaric storage as shelf life extension of local perishable commodities should be investigated, particularly for those commodities which are exported.

Your Committee believes that due to Hawaii's insular nature and total dependence on sea and air transportation, Hawaii would greatly benefit from the usage of the hypobaric system by substantial savings to both the producers of Hawaiian agricultural products in operational and shipping costs and the consumer through reduced costs of imports into Hawaii.

Your Committee further feels that the College of Tropical Agriculture, University of Hawaii, has the necessary technical expertises to determine and develop hypobaric control data on perishable commodities produced in Hawaii.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 380 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 832-76 Economic Development on S.R. No. 418

The purpose of this Concurrent Resolution is to request the executive branch to enter into discussions with visitor industry members for the purpose of seeking solutions to the common problem of overbooking. To this end, the Concurrent Resolution proposes the creation of a Special Committee on Accommodations to include representatives from State agencies and the visitor industry.

Your Committee finds that the occurrence of incidents in which a visitor to Hawaii is denied accommodations in a hotel for which a reservation has been obtained prior to arrival adversely affects the Hawaii visitor industry, and thus, the economic well-being of the entire State. The Governor's Tourism Planning Advisory Committee estimates that the number of visitors to Hawaii is increasing at an annual rate of 5.5% or an expected 4.7 million visitors in 1985. As the number of visitors increases, so too may the number of incidents of denied accommodations. Inasmuch as such incidents are an outgrowth of the complex interaction of the methods of operation of the hotel, tour operators, and the airlines serving the industry, your Committee feels that the creation of a Special Committee on Accommodations is essential to the development of an understanding of these complex interactions and the entire overbooking problem in the State.

Your Committee finds that a Special Committee on Accommodations composed of the following member: one representative from the Department of Planning and Economic Development, one representative from the Office of Consumer Protection, one representative from the Hawaii Visitors Bureau's Department of Visitor Satisfaction, one representative of the Hawaii Hotel Association, one representative from the airline industry, two representatives from the hotel industry, and two representatives from wholesale travel agencies, afford the committee the widest possible input from all facets of this complex problem. The Special Committee on Accommodations will discuss, in general terms, and advise the Director of Planning and Economic Development on methods of resolving the overbooking problem in Hawaii.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 418.

Signed by all members of the Committee.



SCRep. 833-76 Economic Development on S.R. No. 319

The purpose of this Resolution is to reemphasize the Legislature's belief in the positive value of and its commitment to agricultural parks in Hawaii and to request that the Department of Land and Natural Resources, with the cooperation of other State agencies and institutions, actuate this belief by strengthening its efforts in the development of the agricultural parks program.

Your Committee finds that the concept of agricultural parks is as viable today as it was three years ago when the Legislature enacted Act 231, a measure providing the vehicles necessary for the creation of agricultural parks. Yet, your Committee further finds that only minimal progress has been made in the development of agricultural parks since Act 231 went into effect. Therefore, we feel it necessary to request more strongly that the proper administrative bodies responsible for the creation of agricultural parks be more attentive to the State's commitment to diversified agriculture.

Your Committee on Economic Development is in accord with the intent and purpose of S.R. No. 319 and recommends that it be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 834-76 Economic Development on S.R. No. 322

The purpose of this resolution is to request the Department of Land and Natural Resources to plan and develop the area mauka of Ke-Ahole Airport for the purposes of growing dendrobium orchids and indoor foliage plants.

Your Committee finds that the aforementioned site is well suited for agricultural purposes such as the growing of dendrobium orchids and other indoor foliage plants, and that the development of an agricultural park at Ke-Ahole would provide a non-polluting industry which is compatible with the tourist-oriented location and which could generate jobs for the residents of that area.

Your Committee on Economic Development is in accord with the intent and purpose of S.R. No. 322 and recommends that it be referred to your Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 835-76 Economic Development on H.B. No. 3107-76

The purpose of this bill is to authorize the director of planning and economic development to collect hotel occupancy status from hotels in Hawaii on a periodic basis in order to ascertain the advisability and feasibility of establishing a central clearing office to monitor hotel reservations.

To this end, a twoyear pilot project is authorized with the department to explore the feasibility of such an office. The bill provides that the director may require reservations data from hotels which maintain an aggregate room count of 100 or more on a periodic basis. Furthermore, such data will be reviewed and interpreted by a Technical Reservations Committee composed of three to five persons having personal technical knowledge of hotel reservations practice.

Your Committee feels that this bill represents a substantive first attempt to deal effectively with the complex problem of hotel overbookings in Hawaii. After a careful study, your Committee finds that overbooking is a complex and multi-faceted problem which adversely affects the visitor industry as well as the general well-being of the State's economy. Inasmuch as overbooking is often an outgrowth of the complex interaction of operations of the hotel, tour operators, and airlines, this bill will better enable the department of planning and economic development to understand these complex factors in order to develop the means to reduce the number of overbooking incidents in Hawaii.

Your Committee further notes that this bill, by requiring the hotels to submit the requested data to the department of planning and economic development, deals in part with the monitoring in the private sector.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 3107-76, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 836-76 Ecology, Environment and Recreation on S.R. No. 423

The purpose of this resolution is to request the Committee on Ecology, Environment and Recreation to conduct a study during the interim preceding the Regular Session of 1977 of the impact of Act 193, Session Laws of Hawaii 1975, on decision making by the Land Use Commission.

Act 193, SLH 1975, made a number of substantial changes in the Land Use Commission decision making process including reconstituting hearings as quasi-judicial proceedings, abolishing the five-year district boundary review, establishing interim statewide land use guidance policies, requiring conformity between commission amendments and enacted state plans, and limiting persons who could apply for land use district boundary amendments. Your Committee finds that although the Act provides an expanded record for decision and allows fairness to property owners whose petitions are under review, and it has clarified the rights and duties of those having standing in Commission hearings, it is less than clear as to the rights of the general public and persons with specific but non-economic property interests to participate in Land Use Commission matters.

It is a proper and important function of the legislative branch of government to monitor the effects of laws it enacts and therefore it would be appropriate during the interim session to review Act 193 and its impact upon the State.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 423 and recommends that it be referred to your Committee on Economic Development.

Signed by all members of the Committee except Senator Hara.

SCRep. 837-76 Judiciary on Gov. Msg. No. 122

Recommending that the Senate advise and consent to the nomination of EDNA C. KONDO, to the Board of Barbers, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 838-76 Judiciary on Gov. Msg. No. 123

Recommending that the Senate advise and consent to the nomination of ALBERT M. COSTANIOS, to the Board of Barbers, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 839-76 Judiciary on Gov. Msg. No. 124

Recommending that the Senate advise and consent to the nomination of LOUIS B. OCLARAY, to the Boxing Commission, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 840-76 Judiciary on Gov. Msg. No. 125

Recommending that the Senate advise and consent to the nomination of PATRICK L. MEDEIROS, to the Cemetery and Mortuary Board, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 841-76 Judiciary on Gov. Msg. No. 126

Recommending that the Senate advise and consent to the nomination of DR. LAWRENCE EUSTACE, to the Board of Chiropractic Examiners, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 842-76 Judiciary on Gov. Msg. No. 132

Recommending that the Senate advise and consent to the nomination of GEORGE S. SHIMADA, to the Collection Agency Board, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 843-76      Judiciary on Gov. Msg. No. 133

Recommending that the Senate advise and consent to the nomination of ROBERT M. ABE, to the Collection Agency Board, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 844-76      Judiciary on Gov. Msg. No. 134

Recommending that the Senate advise and consent to the nomination of THEODORE PALISBO, to the Collection Agency Board, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 845-76      Judiciary on Gov. Msg. No. 146

Recommending that the Senate advise and consent to the nomination of EUDORA A. LEE, to the Board of Cosmetology, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 846-76      Judiciary on Gov. Msg. No. 147

Recommending that the Senate advise and consent to the nomination of YOSHIE O. UNG, to the Board of Cosmetology, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 847-76      Judiciary on Gov. Msg. No. 149

Recommending that the Senate advise and consent to the nomination of DR. EDWARD G. MAEHARA, to the Board of Dental Examiners, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 848-76      Judiciary on Gov. Msg. No. 150

Recommending that the Senate advise and consent to the nomination of DR. RICHARD SHINDO, to the Board of Dental Examiners, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 849-76      Judiciary on Gov. Msg. No. 151

Recommending that the Senate advise and consent to the nomination of STANLEY M. TAKAMINE, to the Board of Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 850-76      Judiciary on Gov. Msg. No. 152

Recommending that the Senate advise and consent to the nomination of CALVIN L.K. CHING, to the Board of Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 851-76      Judiciary on Gov. Msg. No. 153

Recommending that the Senate advise and consent to the nomination of ROY H. TANJI, to the Board of Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 852-76      Judiciary on Gov. Msg. No. 159

Recommending that the Senate advise and consent to the nomination of CALVIN W. S. LUM, to the Board of Veterinary Examiners, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 853-76      Judiciary on Gov. Msg. No. 160

Recommending that the Senate advise and consent to the nomination of NELLIE S.L. CHANG, to the Board of Pharmacy, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 854-76      Judiciary on Gov. Msg. No. 161

Recommending that the Senate advise and consent to the nomination of DR. ABRAHAM TOKIOKA, to the Board of Examiners of Naturopathy, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 855-76      Judiciary on Gov. Msg. No. 162

Recommending that the Senate advise and consent to the nomination of DR. WALTER T. HORNE, to the Board of Osteopathic Examiners, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 856-76      Judiciary on Gov. Msg. No. 170

Recommending that the Senate advise and consent to the nomination of ANGELINE K. AMONG, to the Board of Paroles and Pardons, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 857-76      (Majority) Judiciary on Gov. Msg. No. 171

Recommending that the Senate advise and consent to the nomination of SCHUYLER F. HOSS, to the Board of Paroles and Pardons, for term ending December 31, 1979.

Signed by all members of the Committee.    Senator Leopold did not concur.

SCRep. 858-76      Judiciary on Gov. Msg. No. 172

Recommending that the Senate advise and consent to the nomination of THOMAS K. HUGO, JR., to the Board of Paroles and Pardons, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 859-76      Judiciary on Gov. Msg. No. 233

Recommending that the Senate advise and consent to the nomination of KAREN L. AH MAI, to the Hawaii Public Broadcasting Authority, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 860-76      Judiciary on Gov. Msg. No. 234

Recommending that the Senate advise and consent to the nomination of DAMARIS A. KIRCHHOFER, to the CATV Advisory Committee, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 861-76      Judiciary on Gov. Msg. No. 235

Recommending that the Senate advise and consent to the nomination of DR. RICHARD A. SANDERSON, to the CATV Advisory Committee, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 862-76      Judiciary on Gov. Msg. No. 236

Recommending that the Senate advise and consent to the nomination of JACK C. WADA, to the CATV Advisory Committee, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 863-76      Judiciary on Gov. Msg. No. 237

Recommending that the Senate advise and consent to the nomination of ROBERT M. IMOSE, to the CATV Advisory Committee, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 864-76      Judiciary on Gov. Msg. No. 238

Recommending that the Senate advise and consent to the nomination of STEVEN S. HIRANO, to the CATV Advisory Committee, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 865-76      Judiciary on Gov. Msg. No. 239

Recommending that the Senate advise and consent to the nomination of GEORGE MATSUDA, to the Board of Public Accountancy, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 866-76      Judiciary on Gov. Msg. No. 240

Recommending that the Senate advise and consent to the nomination of EFRAIN ANDREWS, to the Board of Public Accountancy, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 867-76      Judiciary on Gov. Msg. No. 241

Recommending that the Senate advise and consent to the nomination of JOHN T. VAIL, to the Defender Council, to serve at the pleasure of the Governor.

Signed by all members of the Committee.

SCRep. 868-76      Judiciary on Gov. Msg. No. 242

Recommending that the Senate advise and consent to the nomination of GILBERT K. HARA, to the Defender Council, to serve at the pleasure of the Governor.

Signed by all members of the Committee.

SCRep. 869-76      Judiciary on Gov. Msg. No. 243

Recommending that the Senate advise and consent to the nomination of MYRTLE MOKIAO, to the Defender Council, to serve at the pleasure of the Governor.

Signed by all members of the Committee.

SCRep. 870-76      Judiciary on Gov. Msg. No. 244

Recommending that the Senate advise and consent to the nomination of H.K. BRUSS KEPPELER, to the Defender Council, to serve at the pleasure of the Governor.

Signed by all members of the Committee.

SCRep. 871-76      Judiciary on Gov. Msg. No. 245

Recommending that the Senate advise and consent to the nomination of ROBERT Y. YAMAMOTO, to the Board of Dispensing Opticians, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 872-76      Judiciary on Gov. Msg. No. 246

Recommending that the Senate advise and consent to the nomination of DR. SEIZEN OSHIRO, to the Board of Examiners in Optometry, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 873-76      Judiciary on Gov. Msg. No. 247

Recommending that the Senate advise and consent to the nomination of JEANNE A. WOOLF, to the Board of Certification for Practicing Psychologists, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 874-76      Judiciary on Gov. Msg. No. 248

Recommending that the Senate advise and consent to the nomination of EDWARD A. BERLIN, to the Board of Private Detectives and Guards, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 875-76      Judiciary on Gov. Msg. No. 249

Recommending that the Senate advise and consent to the nomination of AH KAU YOUNG, to the Real Estate Commission, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 876-76      Judiciary on Gov. Msg. No. 250

Recommending that the Senate advise and consent to the nomination of EDWIN H. SHIROMA, to the Real Estate Commission, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 877-76      Judiciary on Gov. Msg. No. 251

Recommending that the Senate advise and consent to the nomination of RALPH S. YAGI, to the Real Estate Commission, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 878-76      Judiciary on Gov. Msg. No. 252

Recommending that the Senate advise and consent to the nomination of LYNETTE N. KAJIWARA, to the Board of Speech Pathology and Audiology, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 879-76      Judiciary on Gov. Msg. No. 253

Recommending that the Senate advise and consent to the nomination of GAILE A. SYKES, to the Board of Speech Pathology and Audiology, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 880-76      Judiciary on Gov. Msg. No. 287

Recommending that the Senate advise and consent to the nomination of WILLIAM T. NISHITA, to the Board of Massage, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 881-76      Judiciary on Gov. Msg. No. 299

Recommending that the Senate advise and consent to the nomination of WILFRED S. NAKAKURA, to the Contractors License Board, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 882-76      Judiciary on Gov. Msg. No. 300

Recommending that the Senate advise and consent to the nomination of DEEN I. MORITA, to the Contractors License Board, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 883-76      Judiciary on Gov. Msg. No. 301

Recommending that the Senate advise and consent to the nomination of ALAN G. MEYERS, SR., to the Contractors License Board, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 884-76      Judiciary on Gov. Msg. No. 302

Recommending that the Senate advise and consent to the nomination of JAMES F. VENTURA, to the Commission to Promote Uniform Legislation, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 885-76      Judiciary on Gov. Msg. No. 357

Recommending that the Senate advise and consent to the nomination of STANLEY T. TOMONO, to the Board of Registration, Island of Hawaii, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 886-76      Judiciary on Gov. Msg. No. 358

Recommending that the Senate advise and consent to the nomination of FLORENSIO MATEO, to the Board of Registration, Kauai and Niihau, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 887-76      Judiciary on Gov. Msg. No. 359

Recommending that the Senate advise and consent to the nomination of RICHARD N. MATO, to the Board of Radiologic Technologists, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 888-76      Judiciary on Gov. Msg. No. 360

Recommending that the Senate advise and consent to the nomination of TADAYUKI YOSHINAGA, to the Board of Paroles and Pardons, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 889-76      Judiciary on Gov. Msg. No. 365

Recommending that the Senate advise and consent to the nomination of TERUO HASEGAWA, to the Board of Hearing Aid Dealers and Fitters, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 890-76      Judiciary on Gov. Msg. No. 366

Recommending that the Senate advise and consent to the nomination of DENNIS T. SEKINE, to the Board of Hearing Aid Dealers and Fitters, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 891-76      Judiciary on Gov. Msg. No. 367

Recommending that the Senate advise and consent to the nomination of ALAN T. DOI, to the Board of Hearing Aid Dealers and Fitters, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 892-76      Judiciary on Gov. Msg. No. 374

Recommending that the Senate advise and consent to the nomination of CARRIE L. LINDAHL, to the Commission on the Status of Women, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 893-76      Judiciary on Gov. Msg. No. 375

Recommending that the Senate advise and consent to the nomination of RONALD K. SAKIMURA, to the Commission on the Status of Women, for term ending December 31, 1976.

Signed by all members of the Committee.

SCRep. 894-76      Judiciary on Gov. Msg. No. 376

Recommending that the Senate advise and consent to the nomination of GWENDOLYN Y. WAHILANI, to the Commission on the Status of Women, for term ending December 31, 1976.

Signed by all members of the Committee.

SCRep. 895-76      Judiciary on Gov. Msg. No. 377

Recommending that the Senate advise and consent to the nomination of WILLIAM G.S. MAU, to the Commission on the Status of Women, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 896-76      Judiciary on Gov. Msg. No. 378

Recommending that the Senate advise and consent to the nomination of NORBERT K. MENDES, to the Board of Registration, Island of Gahu, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 897-76      Judiciary on Gov. Msg. No. 379

Recommending that the Senate advise and consent to the nomination of CAMILLE Y. YAMAMOTO, to the Board of Registration, Island of Oahu, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 898-76      Judiciary on Gov. Msg. No. 380

Recommending that the Senate advise and consent to the nomination of ARTEMIO BAXA, to the Board of Registration, Maui, Molokai, Lanai and Kahoolawe, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 899-76      Judiciary on Gov. Msg. No. 399

Recommending that the Senate advise and consent to the nomination of T. CLIFFORD MELIM, JR., to the Commission on Judicial Qualification, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 900-76      Judiciary on Gov. Msg. No. 400

Recommending that the Senate advise and consent to the nomination of ROBERT L. STEVENSON, to the Commission on Judicial Qualification, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 901-76      Judiciary on Gov. Msg. No. 401

Recommending that the Senate advise and consent to the nomination of HELEN H. KANESHIRO, to the Defender Council, to serve at the pleasure of the Governor.

Signed by all members of the Committee.

SCRep. 902-76      Judiciary on Gov. Msg. No. 402

Recommending that the Senate advise and consent to the nomination of DR. JULIA J. TSUEI, to the Board of Acupuncture, for term ending December 31, 1979.

Signed by all members of the Committee.



SCRep. 903-76      Judiciary on Gov. Msg. No. 408

Recommending that the Senate advise and consent to the nomination of HIROSHI SAKAI, to the Commission to Promote Uniform Legislation, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 904-76      Judiciary on Gov. Msg. No. 415

Recommending that the Senate advise and consent to the nomination of MILES A. KINLEY, to the Cemetery and Mortuary Board, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 905-76      Judiciary on Gov. Msg. No. 416

Recommending that the Senate advise and consent to the nomination of MANUEL P. CABRAL, to the Cemetery and Mortuary Board, for term ending December 31, 1976.

Signed by all members of the Committee.

SCRep. 906-76      Judiciary on Gov. Msg. No. 428

Recommending that the Senate advise and consent to the nomination of GEORGE R. RODRIGUES, JR., to the Board of Electricians and Plumbers, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 907-76      Judiciary on Gov. Msg. No. 437

Recommending that the Senate advise and consent to the nomination of HARVEY T. KODAMA, to the Motor Vehicle Industry Licensing Board, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 908-76      Judiciary on Gov. Msg. No. 438

Recommending that the Senate advise and consent to the nomination of JAMES OKADA, JR., to the Motor Vehicle Industry Licensing Board, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 909-76      Judiciary on Gov. Msg. No. 439

Recommending that the Senate advise and consent to the nomination of ALLAN S. TOTOKI, to the Motor Vehicle Repair Industry Board, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 910-76      Judiciary on Gov. Msg. No. 440

Recommending that the Senate advise and consent to the nomination of AKIRA SATO, to the Motor Vehicle Repair Industry Board, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 911-76      Judiciary on Gov. Msg. No. 441

Recommending that the Senate advise and consent to the nomination of JESSE W. BAKER, JR., to the Motor Vehicle Repair Industry Board, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 912-76      Judiciary on Gov. Msg. No. 442

Recommending that the Senate advise and consent to the nomination of EDWIN I. CLEVELAND, to the Motor Vehicle Repair Industry Board, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 913-76 Judiciary on Gov. Msg. No. 443

Recommending that the Senate advise and consent to the nomination of ERIC G. ROMAN-CHAK, to the Motor Vehicle Repair Industry Board, for term ending December 31, 1976.

Signed by all members of the Committee.

SCRep. 914-76 Judiciary on Gov. Msg. No. 444

Recommending that the Senate advise and consent to the nomination of MARGARET S. PRIEST, to the Motor Vehicle Repair Industry Board, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 915-76 Judiciary on Gov. Msg. No. 445

Recommending that the Senate advise and consent to the nomination of LEHUA CONRAD, to the Motor Vehicle Repair Industry Board, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 916-76 Economic Development on Gov. Msg. Nos. 348, 349, 350, 351, 352, 353, 354, 355 and 356

Recommending that the Senate advise and consent to the nominations to the Land Use Commission as follows:

SHINSEI MIYASATO, for term ending December 31, 1979;  
 JAMES R. CARRAS, for term ending December 31, 1979;  
 CHARLES W. DUKE, for term ending December 31, 1978;  
 COLETTE Y. MACHADO, for term ending December 31, 1978;  
 CAROL B. WHITESELL, for term ending December 31, 1977;  
 EDWARD K. YANAI, for term ending December 31, 1977;  
 MITSUO OURA, for term ending December 31, 1976;  
 STANLEY S. SAKAHASHI, for term ending December 31, 1976; and  
 EDDIE TANGEN, for term ending December 31, 1976.

Signed by all members of the Committee except Senators Hara and Toyofuku.

SCRep. 917-76 Economic Development on Gov. Msg. No. 406

Recommending that the Senate advise and consent to the nomination of MUTSUO HASHIMOTO, to the Commission on the Year 2000, for term ending December 31, 1978.

Signed by all members of the Committee except Senators Hara and Toyofuku.

SCRep. 918-76 Economic Development on Gov. Msg. No. 407

Recommending that the Senate advise and consent to the nomination of PAM F. HUCH, to the Commission on Population and the Hawaiian Future, for term ending December 31, 1979.

Signed by all members of the Committee except Senators Hara and Toyofuku.

SCRep. 919-76 Economic Development on Gov. Msg. No. 454

Recommending that the Senate advise and consent to the nomination of PAUL ROMIAS, to the Pest Control Board, for term ending December 31, 1979.

Signed by all members of the Committee except Senators Hara and Toyofuku.

SCRep. 920-76 (Majority) Judiciary on H.B. No. 2160-76

The purpose of this bill is to give the chief security officer employed by the Stadium Authority all the powers of a police officer, including the power of arrest; provided that such power shall remain in force and in effect only when he is in the actual performance of his duties at the Aloha Stadium.

Your Committee finds that there is an increasing need for tighter security at Aloha Stadium because of rowdiness of some patrons. Presently the security personnel at Aloha Stadium do not have enforcement powers while performing their duties of maintaining order and protecting property. In order to effectively discharge such duties, it is

essential that police powers, including the power of arrest, be given to the chief security officer. It is the intent of your Committee that this power shall not be delegated to any other security officer employed by the Stadium Authority.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2160-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee. Senators George and Saiki did not concur.

SCRep. 921-76 Judiciary on H.C.R. No. 59

The purpose of this resolution is: (1) to request the Congress of the United States to amend the Immigration Act by basing immigration quotas on current employment conditions and by restricting categories of eligibility for immigration except for those that pertain to immediate relatives; and (2) to request Congress to appropriate special funds for social, health and economic services for immigrants to states and localities having more immigrants than the national average.

Currently, federal immigration laws and policies determine the number and the eligibility of immigrants who enter the United States. Under the preference system established by the Immigration and Nationality Act, skilled and unskilled workers in occupations for which labor is in short supply are given sixth preference consideration.

It is your Committee's understanding that the U.S. Department of Labor annually certifies the listing of occupations that are in national demand. However, your Committee learned that the current labor certification system has not been effectively limiting the number of immigrant workers entering state or city where unemployment is particularly high. Thus, your Committee feels that more diligent efforts should be made to control the impact immigrants have upon local employment markets.

Your Committee further feels that immigration provisions which allow immediate relatives to join their families in the United States should continue to be given priority consideration and be excluded from ceiling limitations.

Your Committee feels that it is incumbent upon the Congress to consider appropriating additional funds to relieve the strain of meeting immigrant needs in areas where immigrant/population ratio is greater than the national average. This would alleviate the social and fiscal impact of federal immigration policies in Hawaii and will strengthen our commitment to provide assistance in the adjustment and transition for immigrants.

The Department of Social Services and Housing, the State Commission on Manpower and Full Employment and the International Longshore Workers Union have presented testimony in support of this resolution.

Your Committee on Judiciary concurs with the intent and purpose of H.C.R. No. 59 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 922-76 (Joint) Economic Development and Ecology, Environment and Recreation on S.C.R. No. 101

The purpose of this Concurrent Resolution is to urge the Department of Planning and Economic Development to concentrate its full efforts in the formulation of the State Plan as defined in Act 189. The Concurrent Resolution further proposes a new timetable for submittal of the State Plan to the Legislature. The Department is urged to submit a comprehensive set of preliminary goals and objectives for the State Plan to the Ninth Legislature prior to January 19, 1977, as well as any final elements of the State Plan which are complete by December 31, 1976.

During the legislative session, your Committees held two joint workshops to consider, first, the "Interim Progress Report on the Hawaii State Plan", and subsequently, the "Addendum to the Interim Progress Report on the Hawaii State Plan". Your Committees have re-examined the current January 1977 deadline for completion of the State Plan, and have found that the current deadline is likely to force a product to be materialized at the expense of quality. Inasmuch as the State Plan must contain input from, and be interlinked with, other ongoing functional master plans, some of which will not be finalized until a later date, your Committees feel that the completion date should be modified in terms of the work program outlined in the progress reports. The status reports submitted to your Committees indicate that complete final elements and refinements of

the State Plan will be ready for submittal to the second regular session of the Ninth Legislature.

Your Committees believe that the Legislature should continue to closely monitor and participate in the formulation of the State Plan during the interim period. To this end, your Committees urge the Senate President and the Speaker of the House to create a joint interim committee, composed of nine members from each house, to oversee and review the work progress in the development of the State Plan. Your Committees, therefore, request that the Senate President appoint nine senators from the membership of the Committees on Economic Development and on Ecology, Environment and Recreation, and the Speaker of the House appoint nine representatives from the membership of the appropriate committees to serve on the interim committee.

Your Committees on Economic Development and Ecology, Environment and Recreation concur with the intent and purpose of S.C.R. No. 101 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 923-76 (Joint) Economic Development and Ecology, Environment and Recreation on S.R. No. 385

The purpose of this resolution is to urge the Department of Planning and Economic Development to concentrate its full efforts in the formulation of the State Plan as defined in Act 189. The resolution further proposes a new timetable for submittal of the State Plan to the Legislature. The Department is urged to submit a comprehensive set of preliminary goals and objectives for the State Plan to the Ninth Legislature prior to January 19, 1977, as well as any final elements of the State Plan which are complete by December 31, 1976.

During the legislative session, your Committees held two joint workshops to consider, first, the "Interim Progress Report on the Hawaii State Plan", and subsequently, the "Addendum to the Interim Progress Report on the Hawaii State Plan". Your Committees have re-examined the current January 1977 deadline for completion of the State Plan, and have found that the current deadline is likely to force a product to be materialized at the expense of quality. Inasmuch as the State Plan must contain input from, and be interlinked with, other ongoing functional master plans, some of which will not be finalized until a later date, your Committees feel that the completion date should be modified in terms of the work program outlined in the progress reports. The status reports submitted to your Committees indicate that complete final elements and refinements of the State Plan will be ready for submittal to the second regular session of the Ninth Legislature.

Your Committees believe that the Legislature should continue to closely monitor and participate in the formulation of the State Plan during the interim period. To this end, your Committees urge the Senate President and the Speaker of the House to create a joint interim committee, composed of nine members from each house, to oversee and review the work progress in the development of the State Plan. Your Committees, therefore, request that the Senate President appoint nine senators from the membership of the Committees on Economic Development and on Ecology, Environment and Recreation, and the Speaker of the House appoint nine representatives from the membership of the appropriate committees to serve on the interim committee.

Your Committees on Economic Development and Ecology, Environment and Recreation concur with the intent and purpose of S.R. No. 385 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 924-76 Economic Development on S.C.R. No. 58

The purpose of this Resolution is to request that the Legislative Auditor conduct the study so that a workable one-stop service for the processing and approval of application for land use requirements may be achieved. The Resolution also requests that this report be made available to the Ninth State Legislature when it convenes on the first day of its Regular Session.

Your Committee finds that the State presently lacks a comprehensive compilation of the various land use provisions which would allow for an orderly review of applications for land use, as well as preclude duplication of efforts or review by various State departments who are presently working at cross purposes with each other. Your Committee believes that the present situation is inefficient in terms of time, money, and personnel,

and that it therefore behooves the State to formulate a more effective and efficient procedure for review and processing of land use requirements.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 58 and recommends that it be referred to your Committee on Legislative Management.

Signed by all members of the Committee except Senator Nishimura.

SCRep. 925-76 Economic Development on S.C.R.No. 79

The purpose of this Concurrent Resolution is to request the Department of Land and Natural Resources to adopt regulations which would protect the opihi from extinction by controlling the harvest of the opihi. The Concurrent Resolution encourages further research of the opihi as well as an investigation of possible opihi aquaculture in man-made environments.

Your Committee, in public hearing, learned that the imposition of size limits, bag limits, and closing and opening of areas to opihi picking on a rotational basis are management measures that are presently being considered by the Department of Land and Natural Resources along with other proposals such as season closure, prohibiting of sale and setting of a moratorium for a prescribed period of time. Testimony offered by the Department, however, indicated several disadvantages of these measures including the difficulties in enforcing size and bag limits, determining suitable size and bag limits for effective management of the resource, and obtaining public agreement as to what area should be closed. Furthermore, the Department suggested that certain measures, such as the imposition of a moratorium for a prescribed period of time, which is one of the most effective means of recovering the opihi resource, would be opposed vigorously by certain segments of the community on the grounds of undue curtailment of the cultural, historical and traditional usage of this resource.

In view of the Department's testimony, your Committee has amended the Concurrent Resolution to urge the Department of Land and Natural Resources to carefully study and evaluate the various concerns and measures pursuant to the adoption of regulations and to report its findings to the Legislature twenty days prior to the convening of the Ninth Legislature.

Your Committee has further amended the Concurrent Resolution to correct certain factual errors as follows:

(1) Opihi species are members of the genus Cellana, not Patella, as indicated in the first paragraph; and

(2) All of the opihi species used commercially are endemic to Hawaii, not just one as indicated in the fourth paragraph.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 79, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 79, S.D. 1.

Signed by all members of the Committee except Senators Hara and Toyofuku.

SCRep. 926-76 Economic Development on S.R. No. 323

The purpose of this Resolution is to request the Department of Land and Natural Resources to adopt regulations which would protect the opihi from extinction by controlling the harvest of the opihi. The Resolution encourages further research of the opihi as well as an investigation of possible opihi aquaculture in man-made environments.

Your Committee, in public hearing, learned that the imposition of size limits, bag limits, and closing and opening of areas to opihi picking on a rotational basis are management measures that are presently being considered by the Department of Land and Natural Resources along with other proposals such as season closure, prohibiting of sale and setting of a moratorium for a prescribed period of time. Testimony offered by the Department, however, indicated several disadvantages of these measures including the difficulties in enforcing size and bag limits, determining suitable size and bag limits for effective management of the resource, and obtaining public agreement as to what area should be closed. Furthermore, the Department suggested that certain measures, such as the imposition of a moratorium for a prescribed period of time, which is one of the most effective means of recovering the opihi resource, would be opposed vigorously by certain segments

of the community on the grounds of undue curtailment of the cultural, historical and traditional usage of this resource.

In view of the Department's testimony, your Committee has amended the Resolution to urge the Department of Land and Natural Resources to carefully study and evaluate the various concerns and measures pursuant to the adoption of regulations and to report its findings to the Legislature twenty days prior to the convening of the Ninth Legislature.

Your Committee has further amended the Resolution to correct certain factual errors as follows:

(1) Opihi species are members of the genus Cellana, not Patella, as indicated in the first paragraph; and

(2) All of the opihi species used commercially are endemic to Hawaii, not just one as indicated in the fourth paragraph.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 323, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 323, S.D. 1.

Signed by all members of the Committees except Senators Hara and Toyofuku.

SCRep. 927-76 Economic Development on S.R. No. 297

The purpose of this Resolution is to request the Board of Water Supply of the City and County of Honolulu to reconsider the July 1, 1975 water rate increase insofar as it pertains to farmers, and to consider, in addition, an overall reduction, as a matter of policy, in water rates for agricultural producers.

With the rapid increase in urbanization and the resulting increased demand on Oahu's water resources and delivery system, the Board of Water Supply has undertaken a large and expensive capital improvements program to provide new sources of water and a more efficient delivery system. This expansion coupled with rising labor and operational costs has resulted in several increases in the water rates. While the increases may not seem large to the average urban user, they amount to large increases to the average farmer. At the present time, the farmer is charged the same rate as applied to the urban consumer.

Furthermore, your Committee finds that the cost of water has increasingly become a burdensome agricultural production cost factor. Future agricultural development, in addition to current agricultural activities, is hampered by water availability and cost. Inasmuch as the State, as a matter of policy, is committed to the preservation and expansion of diversified agriculture, your Committee believes that a reduction in water rates for agricultural producers would aid agriculture in Hawaii.

In reviewing the testimony, your Committee has amended the Resolution to request the Board of Water Supply to consider an overall reduction, as a matter of policy, in water rates for agricultural producers in the course of the next rate study, as your Committee feels this is the proper time for such consideration.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 297, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 297, S.D. 1.

Signed by all members of the Committees except Senators Hara and Toyofuku.

SCRep. 928-76 Economic Development on S.R. No. 404

The purpose of this Resolution is to request that the Department of Land and Natural Resources in coordination with the Department of Planning and Economic Development take appropriate measures to replenish the supply of the State's dwindling Koa trees and investigate marketing possibilities.

Your Committee realizes that the Koa Tree is native to Hawaii and is highly sought for its outstanding timber value, and consequently has been unceasingly harvested to the point where extinction would not be an exaggerated possibility.

Your Committee further realizes that because only a few Koa trees with superior qualities remain, there is a need to perpetuate their valuable genetic qualities, and in addition,

that suitable locations on the Island of Hawaii, selected by the Department of Land and Natural Resources, would be ideal for the propagation of Koa trees.

Your Committee believes that if future generations of the State of Hawaii are to enjoy the benefits of this valuable resource in canoe construction, Hawaiian woodcraft products, and the resulting employment possibilities for our people that new Koa plantings must be started as soon as possible.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 404 and recommends its adoption.

Signed by all members of the Committee except Senators Hara and Toyofuku.

SCRep. 929-76 (Joint) Health and Higher Education on S.C.R. No. 72

The purpose of this concurrent resolution is to review existing physical fitness programs in the State and develop a comprehensive plan for physical fitness.

The plan would, among other things, provide for:

1. physical fitness programs and activities which would reach and be suitable for a large segment of our people including the handicapped, the elderly and the institutionalized;
2. the development and dissemination of educational materials dealing with physical exercise, medical and dental care, nutrition and other aspects basic to healthful living;
3. an organization which could effectively plan, coordinate, and support a comprehensive program for physical fitness; and
4. feasible implementation proposals, including costs, which make optimum use of existing services and facilities.

The Community Fitness Committee testified they would be most happy to assist in the formulation of such a plan.

Your Committees on Health and Higher Education concur with the intent and purpose of S.C.R. No. 72 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 930-76 (Joint) Health and Higher Education on S.R. No. 292

The purpose of this resolution is to review existing physical fitness programs in the State and develop a comprehensive plan for physical fitness.

The plan would, among other things, provide for:

1. physical fitness programs and activities which would reach and be suitable for a large segment of our people including the handicapped, the elderly and the institutionalized;
2. the development and dissemination of educational materials dealing with physical exercise, medical and dental care, nutrition and other aspects basic to healthful living;
3. an organization which could effectively plan, coordinate, and support a comprehensive program for physical fitness; and
4. feasible implementation proposals, including costs, which make optimum use of existing services and facilities.

The Community Fitness Committee testified they would be most happy to assist in the formulation of such a plan.

Your Committees on Health and Higher Education concur with the intent and purpose of S.R. No. 292 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 931-76 Education on S.C.R. No. 116

The purpose of this resolution is to request that the Department of Education develop

and submit to the Governor a classification and compensation plan for educational officers and that the Governor submit the plan to the Legislature.

Your Committee on Education has found that the need for the development of such a plan is well established, that the lack of one hampers the recruitment and promotional process for these educational officer positions. The Department of Education earlier this year submitted to the Legislature a proposed classification plan that, unfortunately, was not accompanied by a compensation plan. Your Committee has requested through this resolution that the submission next year include both the classification and compensation elements. Adequate review is impossible to achieve with the compensation element missing.

The Committee further recommends that administrative review by the Governor take place as a means of assuring that comparable state jobs are compensated in comparable manner.

An earlier proposal made to this Committee would have placed the responsibility for review and approval of the classification plan solely in the hands of the Board of Education. The Committee declined to take affirmative action on this proposal because it is believed that there is a need to provide for the kind of check-and-balance review that all other state agencies are subject to. The Committee has chosen to establish such a procedure through gubernatorial review.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 116 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 932-76 (Majority) Education on S.R. No. 32

The purpose of this Resolution is to request that the Department of Education and the Hawaii State Teachers Association and the Hawaii Government Employees Association report to the Senate of the Regular Session of 1977 on the evaluation program and its implementation.

The public, members of the teaching profession, and the legislature have patiently awaited the establishment of an evaluation program for teachers and education officers of the Department of Education. The Committee is aware that there have been a great many difficulties in establishing an evaluation procedure acceptable to the various parties involved and is aware also of the efforts that have been made to resolve these issues. But your Committee believes that there is a compelling need for an evaluation program that can no longer be denied and therefore takes this means of urging the final resolution of this matter.

Your Committee, upon consideration of the Resolution has amended it to include the development of evaluation instruments of education officers.

Your Committee on Education concurs with the intent and purpose of S.R. No. 32, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 32, S.D. 1.

Signed by all members of the Committee.  
Senators Anderson, Saiki and Yee did not concur.

SCRep. 933-76 Education on S.R. No. 403

The purpose of this resolution is to provide guidance for the Legislative Reference Bureau in its continuing study on the operation of Iolani Palace.

Your Committee found that certain questions posed by the Legislative Reference Bureau during the course of its study had to be answered by the Legislature before further work on that study could be conducted.

Those questions included the problem of what physical structures are to constitute the Complex, the issue of the purposes of the operation of the Complex, the economic structure of the organization that would operate the Complex, and the problem of ownership of artifacts and objects displayed in the various components of the Complex.

Your Committee has amended the resolution to reflect changes that were found to be required during the Committee's hearing on the resolution. The first of those amendments expands the potential relationships that the Complex may have with other historic sites



in the area.

The second amendment inserts the word "substantially" in the description of the historical period to which the Palace Complex is to be restored, in order to permit the retention of the Barracks, a structure not of the period of the Monarchy.

The third amendment adds "school groups" to the list of priority audiences in order to reflect the Legislature's intention that one of the primary purposes of the Complex is to provide an educational experience for the youth of the State.

Fourth, your Committee has added a proviso that artifacts which are secured for the Complex are to be covenanted for use in the Complex, in order to clarify the Legislature's intention that the organization which is authorized to operate the Complex does not retain artifacts in its own possession.

Finally, in order to provide additional flexibility in the management organization's restoration efforts, your Committee has provided additional discretion to that body in its determination of whether replicas or period pieces should be acquired.

Your Committee on Education concurs with the intent and purpose of S.R. No. 403 in the form attached hereto as S.R. No. 403, S.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 934-76 Human Resources on S.R. No. 148

The purpose of this Resolution is to request the Department of Personnel Services to consider the possibility of adopting the Certified Professional Secretary Examination.

Your Committee finds that out of 8,713 individuals who have attained the Certified Professional Secretary's rating from 1951 to date, only a very small percentage are government employees. Your Committee also finds that back in the 1950's, a group of government secretaries from the District of Columbia served on a committee to acquaint various agencies with CPS. They succeeded in having inserted in the Civil Service Standards, Secretary Series GS 318, a provision recognizing CPS. The provision states, "Possession of a certificate as a Certified Professional Secretary is believed to enhance the candidate's qualifications and may be considered an additional factor and used to award bonuses for rating purposes."

Your Committee further finds that some states are beginning to give recognition for attainment of the CPS rating.

Your Committee feels that given more incentive, many secretaries will make an effort for self-improvement resulting in not only benefits to the individuals but also to the agency, and in turn to the Hawaii State Government.

Your Committee on Human Resources is in accord with the intent and purpose of S.R. No. 148 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 935-76 Higher Education on H.C.R. No. 36

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources and the University of Hawaii to expedite the transfer of the community gardening program from the Department to the University. It is the intent of this concurrent resolution that the Department of Land and Natural Resources contract with the College of Tropical Agriculture, University of Hawaii-Manoa, for the implementation of the program.

Your Committee on Higher Education concurs with the intent and purpose of H.C.R. No. 36, H.D. 1 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 936-76 Higher Education on S.R. No. 264

The purpose of this resolution is to request the University of Hawaii to utilize the Environmental Center as a coordinating unit to plan, develop, and implement a formal curriculum in environmental studies at the University.

Your Committee recognizes the need for a feasibility study on the possible establishment of an undergraduate degree program in environmental studies at the Manoa Campus. Currently, students must tailor their own programs which lead to degrees in liberal studies.

Since such a program involves interdisciplinary academic fields and should receive the normal objective internal reviews, your committee feels that the Chancellor of the Manoa campus should be responsible for the study.

Your Committee has amended the resolution throughout to reflect its concerns.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 264, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 264, S.D. 1.

Signed by all members of the Committee.

SCRep. 937-76 Higher Education on S.R. No. 276

The purpose of this resolution is to request the University of Hawaii and the State Administration to do whatever is necessary to maintain the centralized service, provided by the Career Information Center, to our schools and colleges.

Testimony provided by Mr. David Thompson of the ILWU Local 142, states the following:

"Six years of effort have gone into developing this activity into a very useful statewide service--providing to counsellors, teachers, students and parents, up-to-date information about job opportunities, employment trends, skill and training requirements for each occupation, about schools and opportunities for training and scholarships, and all the other detailed information which the individual counsellor is unable to collect and keep up with unassisted.

This activity is a vital part of Hawaii's career development, occupational guidance and vocational education activity. It must not be allowed to lapse because federal funding is coming to an end."

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 276 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 938-76 Higher Education on S.R. No. 337

The purpose of this resolution is to request the University of Hawaii, with the assistance of the Department of Education, the Department of Accounting and General Services, and organizations associated with physically handicapped persons to conduct a study on the feasibility of providing free bus transportation services to the physically handicapped persons who are attending or wish to attend the university and community colleges of the State.

Your Committee recognizes that the lack of a suitable transportation system is a major obstacle for handicapped persons and finds that providing this service necessary to provide equal educational opportunity to the physically handicapped.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 337 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 939-76 Consumer Protection on S.R. No. 439

The purpose of this Resolution is to request the Office of Consumer Protection and the Real Estate Commission to examine difficulties relating to the legal relationships between condominium developers and owners and to formulate a proposed condominium consumer protection code.

As stated in the Resolution, condominiums may be destined to become the basic housing unit of the future. Although Hawaii has enacted relatively advanced laws regarding condominiums, the volume of consumer-type complaints arising from developer-owner relationships are steadily increasing and each year, the legislature considers additional legislation

in a piece-meal attempt to alleviate these situations.

While the legislature is in accord with the intent of these measures, it has questioned their effect on existing law regarding horizontal property regimes, contained in Chapter 514, Hawaii Revised Statutes.

This concern was explicitly expressed on the Senate floor, this session, by the Vice-Chairman of your Committee on Judiciary as the Senate took final action on four amendments to the Horizontal Property Regimes Act as follows:

"This Act...was originally intended to be a highly technical, legal vehicle for placing certain lands in the horizontal property regimes. It is becoming through our actions... a consumer protection section of the law. Anyone trying to use it in its technical sense will have extreme difficulty...we will need to review this whole matter (and) the consumer protection aspects should be put into a separate code or chapter so that the initial intent of the law can still be accomplished."

Your Committee on Judiciary, as stated in Standing Committee Report No. 605-76, has also recommended further study in this area:

"Your Committee is cognizant of the many problems arising in condominium living here in this State and is sympathetic to the needs of the condominium owner. Your Committee strongly recommends that the Real Estate Commission hold at least one public hearing not less than three months prior to the opening of the regular session of the legislature for the purpose of providing to the board of directors of the association of apartment owners and the individual apartment owners an opportunity to testify with regard to legislation recommended by them or the Commission as part of its function. This hearing shall be publicly announced by the Commission two weeks in advance thereof."

Your Committee on Consumer Protection finds that the intent and purpose of the above-mentioned recommendations can be accomplished through the means proposed in S.R. No. 439.

Your Committee amended the Resolution by including the Legislative Reference Bureau as a participant in this study. Your Committee finds that the technical expertise and research capabilities of the Bureau will be of great importance in examining the problems and proposing enabling legislation to alleviate the situation.

Your Committee also amended the Resolution by stipulating that the Office of Consumer Protection, the Real Estate Commission and the Legislative Reference Bureau provide public input in the formulation of the proposed code, and that they report on the progress and the status of the investigation, at least every two months, to the Chairpersons of your Committees on Consumer Protection, Housing and Hawaiian Homes and Judiciary.

Your Committee on Consumer Protection is in accord with the intent and purpose of S.R. No. 439, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 439, S.D. 1.

Signed by all members of the Committee.

SCRep. 940-76 Ecology, Environment and Recreation on S.C.R. No. 97

The purpose of this concurrent resolution is to request the Department of Health to reevaluate its present water quality monitoring program and submit to the Legislature a report which would include its procedures and practices, the availability of data to the public and the feasibility of annual reports on water quality.

Your Committee finds that correct management decisions regarding water quality must be based on a body of representative, quality controlled and verified information documenting biological, chemical and physical conditions over a period of time. Such a program requires state sponsorship and should include appropriate computer storage and retrieval and quality control of available data and the analysis of that data. The Department of Health, in testifying at a public hearing on this resolution, stated that reevaluation of sampling and monitoring in coastal waters is already underway and changes are being implemented. The Department further stated that it would be happy to provide the 1977 Legislature with a report of its water quality monitoring program.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 97 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 941-76 Ecology, Environment and Recreation on S.R. No. 376

The purpose of this resolution is to request the Department of Health to reevaluate its present water quality monitoring program and submit to the Legislature a report which would include its procedures and practices, the availability of data to the public and the feasibility of annual reports on water quality.

Your Committee finds that correct management decisions regarding water quality must be based on a body of representative, quality controlled and verified information documenting biological, chemical and physical conditions over a period of time. Such a program requires state sponsorship and should include appropriate computer storage and retrieval and quality control of available data and the analysis of that data. The Department of Health, in testifying at a public hearing on this resolution, stated that reevaluation of sampling and monitoring in coastal waters is already underway and changes are being implemented. The Department further stated that it would be happy to provide the 1977 Legislature with a report of its water quality monitoring program.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 376 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 942-76 Ecology, Environment and Recreation on S.C.R. No. 115

The purpose of this concurrent resolution is to request the Department of Planning and Economic Development to include a comprehensive plan for Waimanalo in the State General Plan.

Waimanalo, Oahu, is an important recreational and agricultural area, which is enjoyed by both residents and visitors. Your Committee finds that urban encroachment resulting from population growth threatens the rural character, the agricultural lands and public access to and use of the recreational resources of Waimanalo. Because the State is committed to the preservation of agricultural land, and because the beaches of the State are one of its greatest assets, it is incumbent to study and carefully plan for the future of this area, in order to avoid destroying the character, value, resources, and potential of this portion of Windward Oahu.

Your Committee has amended the resolution as recommended by the Department of Planning and Economic Development to substitute Windward Oahu Regional Plan for the State General Plan. It is the intent of the Legislature that all federal, state, and county agencies shall withhold decisions on any major governmental or private development proposals in Waimanalo, and that the Department of Transportation prohibit the use of Bellows Field as a light aircraft landing port until this Windward Regional Plan is developed.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 115 as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 115, S.D. 1.

Signed by all members of the Committee.

SCRep. 943-76 Ecology, Environment and Recreation on S.R. No. 428

The purpose of this resolution is to request the Department of planning and Economic Development to include a comprehensive plan for Waimanalo in the State General Plan.

Waimanalo, Oahu, is an important recreational and agricultural area, which is enjoyed by both residents and visitors. Your Committee finds that urban encroachment resulting from population growth threatens the rural character, the agricultural lands, and the public access to and use of the recreational resources of Waimanalo. Because the State is committed to the preservation of agricultural land, and because the beaches of the State are one of its greatest assets, it is incumbent to study and carefully plan for the future of this area, in order to avoid destroying the character, value, resources, and potential of this portion of Windward Oahu.

Your Committee has amended the resolution as recommended by the Department of Planning and Economic Development to substitute Windward Oahu Regional Plan for the State General Plan. It is the intent of the Legislature that all federal, state, and county agencies shall withhold decisions on any major governmental or private development proposals in Waimanalo, and that the Department of Transportation prohibit the use of Bellows Field as a light aircraft landing port until this Windward Regional Plan is developed.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 428 as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 428, S.D. 1.

Signed by all members of the Committee.

SCRep. 944-76 Ecology, Environment and Recreation on S.C.R. No. 91

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources to investigate the potential significance of the historic or pre-historic remains located on State lands in the undeveloped upper portion of Kuliouou Valley below the conservation district, being TMK 3-8-10:5, 6, 7, and 3-8-11:1, or see that such a survey is made prior to the implementation of any project.

Your Committee finds that the Director of the Hawaii Register of Historic Places, in the development of an environmental impact statement on the HHA Kuliouou Valley Associates, Inc., joint venture, recommended that an intense archaeological survey of this area be conducted. The Department of Land and Natural Resources, in testifying at a public hearing on this concurrent resolution, recommended that a Phase I Intensive Survey be conducted prior to any construction activity.

In early December 1975, an archaeological crew of the Bishop Museum completed a brief general reconnaissance survey of the land that is to be developed in Kuliouou. Previous studies conducted by the Bishop Museum of the mouth of the Valley and coastal areas have yielded information on Hawaiian shelters and burial cave sites, and data recovered in this survey of the upper area of the valley can be related to that data previously recovered from coastal sites, giving a more culturally, historically, and scientifically accurate picture of the entire Kuliouou Valley.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 91 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 945-76 Ecology, Environment and Recreation on S.R. No. 366

The purpose of this resolution is to request the Department of Land and Natural Resources to investigate the potential significance of the historic or prehistoric remains located on State lands in the undeveloped upper portion of Kuliouou Valley below the conservation district, being TMK 3-8-10:5, 6, 7, and 3-8-11:1, or see that such a survey is made prior to the implementation of any project.

Your Committee finds that the Director of the Hawaii Register of Historic Places, in the development of an environmental impact statement on the HHA Kuliouou Valley Associates, Inc., joint venture, recommended that an intense archaeological survey of this area be conducted. The Department of Land and Natural Resources, in testifying at a public hearing on this resolution, recommended that a Phase I Intensive Survey be conducted prior to any construction activity.

In early December 1975, an archaeological crew of the Bishop Museum completed a brief general reconnaissance survey of the land that is to be developed in Kuliouou. Previous studies conducted by the Bishop Museum of the mouth of the Valley and coastal areas have yielded information on Hawaiian shelters and burial cave sites, and data recovered in this survey of the upper area of the valley can be related to that data previously recovered from coastal sites, giving a more culturally, historically, and scientifically accurate picture of the entire Kuliouou Valley.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 366 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 946-76 Health on S.R. No. 46

The purpose of this resolution is to direct the Department of Health to seek increased federal funding to provide health care services for recently arrived foreign-born immigrants, and to report its progress to the Senate.

Your Committee finds that the influx of foreign-born immigrants to Hawaii has continued and increased.

Some of these recent immigrants have shown a relatively high incidence of certain communicable diseases, notably tuberculosis and leprosy.

Your Committee also finds that the treatment of these affected immigrants is a heavy cost currently carried by the State.

In the interest of continuing to protect the citizens of Hawaii from incoming active diseases in foreign-born immigrants who use Hawaii as a port of entry, the intent of this bill is to request that the federal government share the costs to treat affected immigrants.

Your Committee on Health concurs with the intent and purpose of S.R. No. 46 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 947-76 Health on S.R. No. 54

The purpose of this resolution is to direct the department of health to discuss with the proper federal authorities the need to institute improved health screening measures at the federal level to ensure that foreign-born immigrants using Hawaii as a port of entry are in good health, and to report its findings to the President of the Senate.

Your Committee on Health finds that the increased and continued influx of foreign-born immigrants to Hawaii requires more vigilant efforts to prevent the entry of active cases of leprosy and tuberculosis.

Your Committee also finds that there have been incidences of tuberculosis and leprosy among recent immigrants indicating that current federal government measures are inadequate.

The intent of this resolution is to ask the Department of Health to ask the proper federal authorities to impose stricter screening measures with regard to foreign-born immigrants.

Your Committee on Health concurs with the intent and purpose of S.R. No. 54 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 948-76 Ways and Means on H.B. No. 846

The purpose of this bill is to increase marriage license fees and the compensation of agents authorized to grant such licenses.

The fee for a marriage license would be increased from \$5 to \$8 under this bill, and provides for the retention of \$4 instead of \$3 by the collecting agent, if he is not a State employee and raises the amount remitted to the State's general fund from \$2 to \$4. The bill will help defray costs of mailing certified copies of marriage certificates as required by law.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 846, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 949-76 Ways and Means on H.B. No. 1413

The purpose of this bill is to change the language in section 501-211 of the Hawaii Revised Statutes to eliminate any doubt as to the time to assess the fee before filing a decree of registration. Controversy has arisen as to whether the words "last assessment for taxation" mean (1) the last assessment at the time of filing of the petition, or (2) the last assessment at the time of the issuance of the decree.

Language is also inserted in section 501-212 limiting the amount of damages against the assurance fund to the amount insured. As it now stands, the law is silent as to the amount the State is liable under the assurance fund.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1413, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 950-76      Ways and Means on H.B. No. 2147-76

The purpose of this bill is to bring about greater participation by private lenders in extending credit to farmers. The bill proposes to allow the Department of Agriculture to establish maximum interest rates chargeable by private lenders for loans insured by the Department consistent with the lenders' prevailing rate for similar loans.

The existing Farm Loan Act restricts the interest rate chargeable by private lenders to two per cent above the prime rate. Private lenders are often unwilling to participate when the maximum chargeable interest does not provide a reasonable yield. This lack of participation becomes more pronounced during times of "tight money". Presently, due to the restrictive interest ceiling placed on private lenders, activity under the insured loan program is practically nonexistent.

Your Committee feels that this bill will induce private lenders to extend credit to farmers more readily, and thus, ease the stress currently placed upon the Farm Loan Program of the Department of Agriculture.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2147-76 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 951-76      Ways and Means on H.B. No. 2159-76

The purpose of this bill is to amend section 40-84, Hawaii Revised Statutes, in order to provide an exclusion to the Stadium Authority from the petty cash limitation of \$5,000 which is the maximum allowable for each state agency.

When legislation was enacted many years ago limiting the amount of petty cash funds to \$5,000 for each agency, the State did not expect to operate a facility such as the Aloha Stadium. Now with the undertaking of a stadium operation, the Stadium Authority finds that it cannot efficiently and effectively function under a petty cash fund limitation of \$5,000. The Authority's experience has shown that a petty cash fund of approximately \$15,000 is needed for change fund purposes during normal box office and parking operations. During weekends with extra events or events having large crowds, change fund requirements usually exceed \$15,000. Your Committee agrees that the Stadium Authority should be excluded from the petty cash limitation of \$5,000 so that necessary arrangements can be made with the state comptroller to satisfy the petty cash requirements for the Aloha Stadium which far exceeds \$5,000.

This exclusion is not without precedent for under the present provisions of section 40-84, Hawaii Revised Statutes, the University is granted a like exclusion.

Your Committee heard testimony on the Senate version of this bill, S.B. No. 1803-76, and is in favor of the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2159-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 952-76      Ways and Means on H.B. No. 2161-76

The purpose of this bill is to permit the Director of Finance to delegate to the Deputy Director of Finance, with the approval of the Governor, duties and responsibilities relative to state bonds.

Under the present statute there is some question as to whether the Deputy Director of the Department of Budget and Finance can sign bonds issued by the State. This authority should be allowed to provide maximum administrative flexibility in the operations of the Department of Budget and Finance.

The programs of the department and the responsibilities of the director of the department have increased greatly in recent years. State financial management generally has become increasingly complex, Hawaii's bond sales have increased, the budgeting process has grown, as has the electronic data processing function. In addition to these primary functional responsibilities, the department also has several significant boards and commissions attached for administrative purposes.

Your Committee agrees that the responsibility of the director for signing loans is purely a ministerial task and the delegation of this function to the deputy director is in the State's best interest.

Your Committee heard testimony on the Senate version of this bill, S.B. No. 1805-76, and is in favor of the bill as amended by the House of Representatives.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2161-76, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 953-76      Ways and Means on H.B. No. 2230-76

The purpose of this bill is to amend the existing law by increasing the examination fee from \$25 to \$35.

This increase is necessary inasmuch as the Professional Examination Service, New York, which prepares and grades the examination, has recently raised the service cost from \$25 to \$30 for each candidate. The additional \$5 will help defray the costs of the Division's examination staff in arranging for the examination room, monitoring the examinations, and preparing and mailing instructions and examination results to candidates.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2230-76 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 954-76      Ways and Means on H.B. No. 2167-76

The purpose of this bill is to delete the \$6,000 salary ceiling for the position of the sanitation and reclamation expert.

Your Committee finds that the \$6,000 salary ceiling is unrealistic and that by deleting the salary ceiling, the Department would be allowed more flexibility in employing a qualified person.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2167-76 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 955-76      Ways and Means on H.B. No. 2220-76

The purpose of this bill is to increase the interest rate under the Hawaii Capital Loan Program.

The Hawaii Capital Loan Program, provides loans at reasonable rates to small business concerns that were unable to obtain financial assistance from other financial institutions at reasonable terms and to complement the assistance provided by the United States Small Business Administration.

The interest rate was set in 1963 to conform to the then current SBA rate of five and one-half per cent a year and has not changed since then. However, the SBA has now increased its rate to six and five-eighths per cent a year and your Committee feels a change in the interest rate for the Hawaii Capital Loan Program should be made. The seven and one-half per cent rate will also be more in line with current money rates.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2220-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 956-76      Ways and Means on H.B. No. 2101-76

The purpose of this bill is to add a new section to the Hawaii Revised Statutes to permit the comptroller to issue warrants for original warrant vouchers, without accompanying original bills with regard to payments to providers of the Hawaii State Medicaid Program. The bill provides that the original bills shall be retained by the expending agency vouchering



payment. For purposes of this section, the definition of original bills was expanded to include computer magnetic tape, computer listings, computer output microfilm, microfiche, and manually produced microfilm.

The intent of this bill is to speed up the payment process to providers under the Medicaid Program. The bill will permit acceptance of original bills by the expending agency in nondocument forms. Health care providers with the capability of producing original bills in forms such as computer magnetic tape or microfilm would be able to submit these forms for processing and the need for generating paper documents to serve as original bills would be eliminated. The time element involved in claims processing would be substantially reduced.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2101-76, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 957-76      Ways and Means on H.B. No. 2137-76

The purpose of this bill is to reduce the cost of advertising for competitive public bids and to reduce the time delays necessitated by present advertising requirements.

While some means of public notice is desirable, the need to advertise for bidders is not as compelling today. Bidders' lists are widely used today and as a result, government agencies are well aware of the potential bidders.

Advertising costs have increased to approximately \$90,000 per year today. If statutory advertising requirements were changed from five ads to three as provided in this bill, there would be a 40 per cent reduction in bid advertising costs. This would be a saving of about \$36,000 a year.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2137-76, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 958-76      Ways and Means on H.B. No. 2246-76

The purpose of this bill is to add the Campus Center to the list of activities which are exempted from central services expenses.

According to the Dean of Students at the University of Hawaii, the Campus Center is a special fund operation, similar to student housing, summer session, continuing education and all campus bookstores and cafeterias. These programs are currently exempt from central services charges. Consistency and equity therefore require similar exemption for the Campus Center.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2246-76 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 959-76      Ways and Means on H.B. No. 2300-76

The purpose of this bill is to amend chapter 346, Hawaii Revised Statutes, by adding a new section which directs the Department of Social Services and Housing to adopt rules permitting payment to providers of group psychotherapy for services to Medicaid recipients.

Your Committee finds that group therapy has been found to have significant therapeutic value in helping some persons adjust to living conditions and situations. The group provides the individual member with support and attention as well as selfappraisal and constructive criticism which creates an environment favorable to modifying old behaviors and learning new patterns of behavior.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2300-76, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 960-76 Ways and Means on H.B. No. 2023-76

The purpose of this bill is to adopt federal income tax provisions which allow for the deduction of household and dependent care expenses incurred for employment purposes.

Under present state income tax provisions, certain categories of taxpayers are granted limited income tax deductions for the care of a dependent child and also generally incapacitated dependents where these expenditures enable the taxpayer to be gainfully employed. The deduction is \$600 a year for one dependent not to exceed a total of \$900 for two or more, and is generally limited to a person whose combined family income does not exceed \$6,000.

There have been no changes in the present Hawaii Provision since it first went into effect in 1965. Since then, the cost of living in Hawaii has risen dramatically and now exceeds by at least 20 per cent the cost of living in any other state of the Union, with the exception of Alaska.

The federal government has seen fit to raise the ceiling from \$6,000 to \$18,000 in 1971, and from \$18,000 to \$35,000 in 1975, in order to keep pace with increased care costs and to provide benefits to low and middle income families. Tax experts in Hawaii have agreed that the change from \$18,000 to \$35,000 is justified, and this position is supported by the State Department of Taxation.

This bill proposes to allow any taxpayer who maintains a household for anyone under age 15 for whom the taxpayer can claim a dependency deduction or for a spouse or other dependent who is incapable of self-care to earn up to \$35,000 and still be eligible for full deduction. The deduction allows \$200 a month for one dependent, \$300 for two, and \$400 for three or more (maximum allowable \$4,800 a year). Expenses include household service expenses, child care expenses outside of the home, and similar expenses necessary to enable the taxpayer to be gainfully employed.

Your Committee finds this proposal to be in line with the general legislative intent to conform the state income law with the Internal Revenue Code in order to simplify the filing of returns and minimize the taxpayer burden in complying with the state income tax law (section 253-3, Hawaii Revised Statutes).

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2023-76, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 961-76 Ways and Means on H.B. No. 2302-76

The purpose of this bill is to broaden the indigent burial program to allow the Department of Social Services and Housing to pay up to \$400 for mortuary and crematory, and up to \$400 for cemetery costs. The services will be furnished by a provider under contract by the Department.

Your Committee finds that in permitting relatives to freely choose a provider of burial services would be detrimental in terms of cost. Oftentimes, these surviving relatives choose a provider who requires more than the allotted \$400, and is thus contrary to the intent of providing a dignified service. Moreover, the Department would not be able to provide full service for persons with no known survivors. These persons constituted approximately one-half of the 418 cases in calendar year 1975.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2302-76, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 962-76 (Majority) Ways and Means on H.B. No. 2998-76

The purpose of this bill is to allow the Comptroller administrative flexibility in the conduct of the Parking Control Program.

The designation of parking lots should be influenced by the needs of governmental operations and proximity to governmental centers. The designation of land under the jurisdiction of Comptroller as parking facilities and setting of fees for parking should be a discretionary one.

This bill provides for a change in the mandatory language presently applicable to the Comptroller's duties over parking facilities.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2998-76, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee. Senators Hara and Kuroda did not concur.

SCRep. 963-76 Ways and Means on H.B. No. 2375-76

The purpose of this bill is to designate the Director of Regulatory Agencies as the consumer advocate in hearings before the Public Utilities Commission and to have the responsibility for representing, protecting, and advancing the interest of consumers of utility services.

Under existing law the Director of Regulatory Agencies is charged with the general responsibility of protecting the interests of consumers. However, as this duty relates to the proceedings of the Public Utilities Commission, the Director, the Commission and the staff of the Public Utilities Division (PUD) of the Department of Regulatory Agencies are placed in awkward and conflicting positions. The Public Utilities Commission is placed in the Department of Regulatory Agencies for administrative purposes and the Director provides staff support to the Commission with Department employees, i.e., the PUD. The Commission has no staff directly under its control except for an attorney which it is authorized to employ. In his role as the consumer protector, the Director relies on the PUD to advocate his position before the Commission while at the same time, the PUD is providing services to the Commission. This commingling of functions within one department has resulted in confusion as to the roles, functions, and responsibilities of the Commission, the PUD and the Director in public utilities regulation.

This bill, in conjunction with H.B. No. 2359-76 resolves this confusion by clearly defining the roles of the Director of Regulatory Agencies and the Public Utilities Commission in the regulatory process. Under this bill the Director is charged with the consumer advocacy function and provided with a staff to carry out this function and the Commission, under H.B. No. 2359-76, is separated from the Department of Regulatory Agencies and given its own staff. This is in accord with the recommendations of the Legislative Auditor contained in his report on the public utilities program of the State (Audit Report No. 75-3).

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2375-76, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 964-76 Ways and Means on H.B. No. 2846-76

The purpose of this bill is to conform the state income tax law with the federal income tax law in respect to deductions for contributions to retirement plans by self-employed persons, shareholder-employees, and persons eligible to establish individual retirement accounts.

Your Committee notes that this bill will allow self-employed individuals and shareholder-employees who are now only able to deduct from taxable income, contributions up to \$2,500 or 10 per cent of their compensation, whichever is less, to deduct from taxable income contributions up to \$7,500 or 15 per cent of earned income, whichever is less. The bill will further allow persons not now covered by a qualified pension plan to deduct from their gross income contributions to an individual retirement account in the amount of \$1,500 or 15 per cent of their compensation, whichever is less.

Your Committee finds that it has long been the policy of the State to encourage businesses of all kinds and that failure to pass this bill will result in a disincentive for the small business-persons, such as the self-employed in all fields, the farmers in the State who are in need of encouragement, and those other persons who because they do not choose to be employed by some business are not able to participate in large pension plans. Not only will failure to conform state law in this area reduce the ability to form pension plans for these individuals, such failure will result in penalizing these individuals under state law for the formation of such plans under federal law, due to the continued taxation of these plan deductions under the state income tax law. Your Committee finds that such a penalty is not in the best interests of the State; and, that even though some revenue loss will occur due to the passage of this bill, it will be more than offset by the increased formation of small businesses and the tax revenues resulting therefrom.

Finally, your Committee finds that in 1967 in Act 117, the State adopted the Keogh

amendments to the Internal Revenue Code which are the basis for the amendments incorporated by this bill. Failure to adopt these amendments will add to the already large amount of paperwork required of small businesses because of differences in state and federal law.

Your Committee heard testimony on the Senate version of this bill, S.B. No. 2322-76, and is in favor of the amendments made by the House of Representatives.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2846-76, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 965-76      Ways and Means on H.B. No. 3162-76

The purpose of this bill is to abolish the youth affairs component in the Office of Information and Youth Affairs in the Office of the Governor, and to transfer its functions to the Commission on Children and Youth; or, if established, the Office of Children and Youth.

Your Committee finds that the responsibility of the information component and those of the youth affairs branch are not sufficiently related to warrant their continuing co-existence within the same body.

Your Committee recommends that a total of \$8,200 be transferred to the Commission on Children and Youth; or, if established, the Office of Children and Youth. This figure was provided by the Office of Information and Youth Affairs and represents that fraction of the Office of Information and Youth Affairs' total budget that had been allocated to the Youth Affairs component.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 3162-76, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 966-76      Transportation on H.B. No. 1508

The purpose of this bill is to continue the 3-1/2¢ fuel tax enacted by the Legislature in 1975.

Act 19 of the 1975 Legislature provided relief by increasing the fuel tax rate to 8-1/2 cents per gallon effective May 1, 1975 to June 30, 1976. This temporary increase provided sufficient revenues to meet budgeted expenditures for only the current fiscal year 1975-1976. For fiscal year 1976-1977, budgeted expenditures authorized by Act 195, SLH, will exceed revenues by approximately 10 million dollars. For the subsequent years, estimated expenditures will exceed estimated revenues by \$15 million in fiscal year 1977-1978. The proposed 3-1/2 cents continuance will generate approximately 10 million dollars per year, which will be sufficient to meet anticipated deficit for fiscal year 1976-1977, and also most of the anticipated deficit for fiscal year 1977-1978.

Your Committee concurs with the belief that without this tax the State, in order to maintain present levels of adequacy, would be forced to float more general obligation bonds. Doing this would insure the total outstanding debt of Hawaii to be very near, if not over, the maximum limit allowed by law and, therefore, seriously jeopardizing all future growth of this State of Hawaii.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1508, H.D. 1, as amended hereind, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1508, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 967-76      Legislative Management

Informing the Senate that S.C.R. Nos. 119 and 120, S.R. Nos. 444 to 448, Conf. Com. Rep. Nos. 38-76 and 39-76 and Stand. Com. Rep. Nos. 837-76 to 966-76 and 968-76 to 1019-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 968-76 Human Resources on Gov. Msg. No. 129

Recommending that the Senate advise and consent to the nomination of MICHAEL KITAGAWA, to the Civil Service Commission, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 969-76 Human Resources on Gov. Msg. No. 130

Recommending that the Senate advise and consent to the nomination of THOMAS K. SING, to the Civil Service Commission, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 970-76 Human Resources on Gov. Msg. No. 131

Recommending that the Senate advise and consent to the nomination of ROBERT B. RANESES, to the Civil Service Commission, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 971-76 Human Resources on Gov. Msg. No. 191

Recommending that the Senate advise and consent to the nomination of JAMES T. NISHI, to the Commission on Aging, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 972-76 Human Resources on Gov. Msg. No. 192

Recommending that the Senate advise and consent to the nomination of REVEREND FRANCO MANUEL, to the Commission on Aging, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 973-76 Human Resources on Gov. Msg. No. 193

Recommending that the Senate advise and consent to the nomination of ALBERT K. SING, to the Commission on Aging, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 974-76 Human Resources on Gov. Msg. No. 194

Recommending that the Senate advise and consent to the nomination of JANE F. TAKAMINE, to the Commission on Aging, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 975-76 Human Resources on Gov. Msg. No. 195

Recommending that the Senate advise and consent to the nomination of SUNG DAI SEU, to the Commission on Aging, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 976-76 Human Resources on Gov. Msg. No. 196

Recommending that the Senate advise and consent to the nomination of LARRY RONSON, to the Commission on Aging, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 977-76 Human Resources on Gov. Msg. No. 197

Recommending that the Senate advise and consent to the nomination of RABBI JULIUS J. NODEL, to the Commission on Aging, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 978-76 Human Resources on Gov. Msg. No. 203

Recommending that the Senate advise and consent to the nomination of REVEREND O.W. EFURD, JR., to the Board of Trustees, Hawaii Public Employees' Health Fund, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 979-76 Human Resources on Gov. Msg. No. 204

Recommending that the Senate advise and consent to the nomination of HARUTO TANABE, to the Board of Trustees, Hawaii Public Employees' Health Fund, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 980-76 Human Resources on Gov. Msg. No. 205

Recommending that the Senate advise and consent to the nomination of MELVIN M. HIGA, to the Board of Trustees, Hawaii Public Employees' Health Fund, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 981-76 Human Resources on Gov. Msg. No. 206

Recommending that the Senate advise and consent to the nomination of WALTER P. YIM, to the Board of Trustees, Hawaii Public Employees' Health Fund, for term ending December 31, 1976.

Signed by all members of the Committee.

SCRep. 982-76 Human Resources on Gov. Msg. No. 226

Recommending that the Senate advise and consent to the nomination of JULIETTE S.H. LING, to the Commission on Children and Youth, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 983-76 Human Resources on Gov. Msg. No. 227

Recommending that the Senate advise and consent to the nomination of BETTY T. MATSUMURA, to the Commission on Children and Youth, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 984-76 Human Resources on Gov. Msg. No. 228

Recommending that the Senate advise and consent to the nomination of PAUL PLADERA, to the Commission on Children and Youth, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 985-76 Human Resources on Gov. Msg. No. 229

Recommending that the Senate advise and consent to the nomination of TOM T. NEKOTA, to the Commission on Children and Youth, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 986-76 Human Resources on Gov. Msg. No. 230

Recommending that the Senate advise and consent to the nomination of JOSEPHINE S. CHAY, to the Commission on Children and Youth, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 987-76 Human Resources on Gov. Msg. No. 231

Recommending that the Senate advise and consent to the nomination of PATRICK L.

DRUMELLER, to the Commission on Children and Youth, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 988-76 Human Resources on Gov. Msg. No. 232

Recommending that the Senate advise and consent to the nomination of DOUGLAS H. KAYA, JR., to the Commission on Children and Youth, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 989-76 Human Resources on Gov. Msg. No. 288

Recommending that the Senate advise and consent to the nomination of GIL PENARANDA, to the Board of Social Services and Housing, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 990-76 Human Resources on Gov. Msg. No. 289

Recommending that the Senate advise and consent to the nomination of CHRISTINE K. ANTHONY, to the Board of Social Services and Housing, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 991-76 Human Resources on Gov. Msg. No. 290

Recommending that the Senate advise and consent to the nomination of KENNETH Y. YOSHIMURA, to the Board of Social Services and Housing, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 992-76 Human Resources on Gov. Msg. No. 291

Recommending that the Senate advise and consent to the nomination of ERNEST D. LIBARIOS, to the Board of Social Services and Housing, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 993-76 Human Resources on Gov. Msg. No. 292

Recommending that the Senate advise and consent to the nomination of FRANCIS J. KENNEDY, JR., to the Hawaii Employment Relations Board, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 994-76 Human Resources on Gov. Msg. No. 293

Recommending that the Senate advise and consent to the nomination of STANLEY LING, to the Hawaii Employment Relations Board, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 995-76 Human Resources on Gov. Msg. No. 294

Recommending that the Senate advise and consent to the nomination of LAURA D. WONG, to the Board of Vocational Rehabilitation, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 996-76 Human Resources on Gov. Msg. No. 295

Recommending that the Senate advise and consent to the nomination of DORA TONG, to the Board of Vocational Rehabilitation, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 997-76 Human Resources on Gov. Msg. No. 296

Recommending that the Senate advise and consent to the nomination of FREDERICK K. LEE, to the Board of Vocational Rehabilitation, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 998-76 Human Resources on Gov. Msg. No. 297

Recommending that the Senate advise and consent to the nomination of CHARLES T. AKAMA, to the Board of Vocational Rehabilitation, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 999-76 Human Resources on Gov. Msg. No. 384

Recommending that the Senate advise and consent to the nomination of KENICHI KAMIMURA, to the Advisory Commission on Manpower and Full Employment, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1000-76 Human Resources on Gov. Msg. No. 385

Recommending that the Senate advise and consent to the nomination of HAROLD M. NAKAKURA, to the Advisory Commission on Manpower and Full Employment, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1001-76 Human Resources on Gov. Msg. No. 386

Recommending that the Senate advise and consent to the nomination of THOMAS J. PRICE, to the Advisory Commission on Manpower and Full Employment, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1002-76 Human Resources on Gov. Msg. No. 387

Recommending that the Senate advise and consent to the nomination of EVALANI MACHADO, to the Advisory Commission on Manpower and Full Employment, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1003-76 Human Resources on Gov. Msg. No. 388

Recommending that the Senate advise and consent to the nomination of GERALD PANG-CHING, to the Advisory Commission on Manpower and Full Employment, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1004-76 Human Resources on Gov. Msg. No. 446

Recommending that the Senate advise and consent to the nomination of MACK H. HAMADA, to the Hawaii Public Employment Relations Board, for term ending December 31, 1981.

Signed by all members of the Committee.

SCRep. 1005-76 Human Resources on Gov. Msg. No. 447

Recommending that the Senate advise and consent to the nomination of RUTH M. ONO, to the Board of Vocational Rehabilitation, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 1006-76 Economic Development on Gov. Msg. No. 224

Recommending that the Senate advise and consent to the nomination of WILLIAM AMARAL,



to the Commission on the Year 2000, for term ending December 31, 1976.

Signed by all members of the Committee except Senators Nishimura and Yamasaki.  
SCRep. 1007-76 Ecology, Environment and Recreation on Gov. Msg. Nos. 201 and 202

Recommending that the Senate advise and consent to the nominations to the Natural Area Reserves System Commission, as follows:

P. QUENTIN TOMICH, for term ending December 31, 1979; and

ROBERT A. KINZIE, III, for term ending December 31, 1976.

Signed by all members of the Committee.

SCRep. 1008-76 Health on Gov. Msg. Nos. 381, 382 and 383

Recommending that the Senate advise and consent to the nominations to the Board of Nursing Home Administrators, as follows:

LUZ ABCEDE, for term ending December 31, 1979;

VIOLET U. TSUGAWA, for term ending December 31, 1979; and

FRANCIS M. OKITA, for term ending December 31, 1976.

Signed by all members of the Committee.

SCRep. 1009-76 Health on Gov. Msg. Nos. 393 and 394

Recommending that the Senate advise and consent to the nominations of DR. DONALD KAWANE and MAXINE CORREA, to the County Hospital Management Advisory Committee, Kauai County Hospital System, for terms ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1010-76 Health on Gov. Msg. Nos. 434, 435 and 436

Recommending that the Senate advise and consent to the nominations to the County Hospital Management Advisory Committee, Maui County Hospital System, as follows:

GORO HOKAMA, for term ending December 31, 1979;

DR. CLIFFORD F. MORAN, for term ending December 31, 1976; and

COLIN C. CAMERON, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1011-76 Transportation on Gov. Msg. No. 298

Recommending that the Senate advise and consent to the nomination of MARTIN W. HESS, to the State Highway Safety Council, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 1012-76 Transportation on Gov. Msg. No. 304

Recommending that the Senate advise and consent to the nomination of JANE E. OYA, to the State Highway Safety Council, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 1013-76 Transportation on Gov. Msg. No. 305

Recommending that the Senate advise and consent to the nomination of JANE L. MARTIN, to the State Highway Safety Council, for term ending December 31, 1976.

Signed by all members of the Committee.

SCRep. 1014-76 Transportation on Gov. Msg. No. 307

Recommending that the Senate advise and consent to the nomination of ELIZABETH H. ROSSALL, to the State Highway Safety Council, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 1015-76 Transportation on Gov. Msg. No. 308

Recommending that the Senate advise and consent to the nomination of EDWIN I. ADOLPHSON, to the State Highway Safety Council, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 1016-76 Transportation on Gov. Msg. No. 309

Recommending that the Senate advise and consent to the nomination of YUZURU KANNO, to the State Highway Safety Council, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 1017-76 Transportation on Gov. Msg. No. 368

Recommending that the Senate advise and consent to the nomination of MILTON K. HIROMAKA, to the Commission on Transportation, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1018-76 Transportation on Gov. Msg. No. 369

Recommending that the Senate advise and consent to the nomination of DAUNENE K. KANAE, to the Commission on Transportation, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1019-76 Transportation on Gov. Msg. No. 370

Recommending that the Senate advise and consent to the nomination of WILLIAM KENNISON, to the Commission on Transportation, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1020-76 Housing and Hawaiian Homes on Gov. Msg. Nos. 412, 413 and 460

Recommending that the Senate advise and consent to the nominations to the Hawaii Housing Authority, as follows:

TONY M. TANIGUCHI, for term ending December 31, 1979;

ALAN B. KIDWELL, for term ending December 31, 1977; and

PAUL A. TOM, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1021-76 Housing and Hawaiian Homes on Gov. Msg. Nos. 417 and 418

Recommending that the Senate advise and consent to the nomination of JEFF TAI and ABBIE K. NAPEAHI, as Commissioners to the Hawaiian Homes Commission, for terms ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1022-76 Housing and Hawaiian Homes on Gov. Msg. Nos. 419, 420, 421, 422, 423, 424 and 425

Recommending that the Senate advise and consent to the nominations to the King Kamehameha Celebration Commission, as follows:

GUSSIE BENTO, for term ending December 31, 1979;

CHARLES L. KANOHO, for term ending December 31, 1979;

KATHERINE K. VAIR, for term ending December 31, 1977;  
DAISY AGUIAR, for term ending December 31, 1979;  
LILLIAN CAMERON, for term ending December 31, 1979;  
ROSE L. JACKMAN, for term ending December 31, 1977; and  
HERMAN H. KALAHIKI, JR., for term ending December 31, 1976.

Signed by all members of the Committee.

SCRep. 1023-76 (Joint) Judiciary and Education on S.R. No. 270

The purpose of this resolution is to request the Governor of the State of Hawaii to form a task force representing both the immigrant community and the public at large to review the Supreme Court decision in Lau v. Nichols and current educational programs available to non-English speaking students and to recommend additional steps the Department of Education can undertake to meet the requirements of the Supreme Court decision; and to report its plans for implementation of remedies to the Senate Committee on Education thirty days before the opening of the 1977 Legislative Session.

In Lau v. Nichols, the U.S. Supreme Court, on January 21, 1974, cited the failure of the San Francisco school system to provide English language instruction to students of Chinese ancestry who do not speak English denied them a meaningful opportunity to participate in the public educational program and thus violates the Civil Rights Act of 1964. The U.S. Supreme Court found that equality of treatment in the public schools could not be achieved merely by providing students with the same facilities, textbooks, teachers, and curriculum since students who do not understand English were effectively foreclosed from any meaningful education.

The U.S. Department of Health, Education, and Welfare issued clarifying guidelines which state that where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students. The U.S. Commissioner of Education and the U.S. Office for Civil Rights jointly issued a memorandum to the chief state school officers requesting school districts to take affirmative steps in developing and implementing voluntary compliance plans to eliminate educational practices which deny non-English speaking student equal educational opportunity.

Your Committees on Judiciary and Education concur with the intent and purpose of S.R. No. 270 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 1024-76 Judiciary on S.C.R. No. 65

The purpose of this concurrent resolution is to request the State Immigrant Services Center to coordinate the information regarding the services provided to immigrants, including the establishment of a common definition of the target group served among all agencies as well as the initiation of a common reporting system for services provided to immigrants, and the establishment of a data bank on immigrants; and to submit a report of its findings and recommendations to the Legislature at least 20 days prior to the Regular Session of 1977.

Your Committee finds that a total of 53,771 foreign immigrants came to Hawaii during the ten-year period 1965-1974 which represents a large share of new residents in the State and the annual flow of immigrants is expected to remain steady for the next decade. Foreign immigrants have experienced an array of problems upon arrival, which include a lack of adequate housing, scarcity of jobs, inadequate health care, and difficulties in adjustment to a new culture, environment, and language.

Act 150, Session Laws of Hawaii 1975, established the State Immigrant Services Center, under the State Commission on Manpower and Full Employment, to assist and coordinate the efforts of public and private agencies in providing services to immigrants and non-English speaking residents.

Both public and private agencies provide a number of services to immigrants as part of their ongoing responsibilities and services to the general public; and specific projects such as the Kalihi-Palama Immigrant Service Center, the Leeward Immigrant Service Center, and the Program for Local Services have been established in recent years to serve immigrants as their specific target group.

Your Committee finds that the coordination of services might increase efficiency and cost savings while contributing toward the elimination of a duplication of efforts and the identification of gap areas in the provision of services. There is a need for a common definition of the immigrant target group, a need for public and private agencies to maintain separate data and records on services to immigrants, and a need for a common reporting system for immigrant projects to facilitate the assessment and evaluation of the effectiveness of service delivery. The responsiveness of the government to the needs of the people of the State, both residents and immigrants, depends upon accurate information regarding the required services of the populace.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 65 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1025-76 Judiciary on S.C.R. No. 106

The purpose of this concurrent resolution is to request the U.S. Census Bureau to make greater provisions for recognizing state and regional differences in planning for the 1980 Census of Population and Housing and provide for validity, significance and comparability of state data, and to adopt the recommendations on the above submitted by the Hawaii Chapter of the American Statistical Association on these matters which include:

1. Adding part-Hawaiian, Samoan, and other Polynesian to the race categories;
2. Adding "territory or possession" to the questions on origin and residence 5 years ago;
3. Clarifying whether declared property value includes the value of the land; and
4. Expanding the upper limits of property value and monthly rent to "\$250,000 or more" and "\$1,000 or more".

The State of Hawaii has depended on the U.S. Bureau of the Census to provide complete censuses of its population, housing and business conditions in a manner which will maintain historical comparability and provide valid detailed data which will fulfill the requirements of federal laws and facilitate social and economic planning. The 1970 Census of Population and Housing included data for the State which was non-comparable to that of previous censuses, specifically, the racial categories which were neither historically comparable nor comparable to current data on births, deaths, and other demographic and economic information, and which led to false conclusions.

Your Committee finds that statistics on place of birth or origin do not adequately reflect the number of persons originating in territories and possessions of the United States. Housing data for Hawaii from the 1970 Census are invalid and inaccurate because many owners of houses and condominiums which are located on leasehold land failed to include the value of the land in the estimated value of their housing because of inadequate instructions. The distributions of the value of property and of the amount of monthly rent for living quarters provided by census data for the State are truncated near the median values because the census questionnaire did not differentiate between the higher amounts which prevail in Hawaii.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 106 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1026-76 Judiciary on S.C.R. No. 108

The purpose of this concurrent resolution is to request the Office of the Legislative Reference Bureau to conduct a detailed study of the feasibility of implementing a system of public financing of political campaigns, to include but not be limited to: (1) an assessment of the possible methods of public financing; and (2) recommendations on how public financing can most effectively be accomplished; and to submit a report of its findings and recommendations to the Legislature twenty days prior to the convening of the Regular Session of 1977.

The Campaign Spending Law was enacted in 1973 to facilitate public scrutiny of campaign financing through disclosure requirements and to restrict the influence of individuals and special interest groups by limiting expenditures. The Supreme Court of the United States, on January 30, 1976, held campaign expenditure limitations unconstitutional

as infringing upon the First Amendment right of freedom of political expression. Your Committee finds that the Supreme Court's ruling effectively diluted Hawaii's controls on campaign financing.

Your Committee feels that there is a potent public interest in regulating the manner of campaign financing to limit the actuality and appearance of corruption resulting from large individual financial contributions. The Supreme Court allowed campaign expenditure ceilings where public financing is available and is accepted by a candidate. Your Committee further feels that a system of public financing could be established to provide a direct state subsidy, a tax check-off election fund, or a system of indirect subsidies which could take the form of the issuance of a voter information pamphlet about candidates and election issues, the provision of tax incentives to individual contributors, the allowance of franking equivalents for candidates, or a combination of these various methods.

Your Committee recommends that this concurrent resolution be amended by inserting "the House of Representatives concurring" in the first "Be It Resolved" clause.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 108, as amended herein, and recommends its adoption, in the form attached hereto as S.C.R. No. 108, S.D. 1.

Signed by all members of the Committee.

SCRep. 1027-76 (Majority) Judiciary on S.C.R. No. 109

The purpose of this concurrent resolution is to request that the Congress of the United State of America to consider seriously the claims of descendants of the Kamehameha, Lunalilo, and Kalakaua royal families for compensation and indemnification for the losses they have suffered by their loss of the Crown Lands of Hawaii when the Hawaiian Islands were annexed to the United States of America.

By the Great Mahele of 1848, all the lands of the Hawaiian Kingdom were divided and distributed by King Kamehameha III, to wit: one third (1/3) to the ranking Chiefs; one third (1/3) for the public called "Government Lands"; and one third (1/3) to the King, his heirs, and successors forever, called the "Crown Lands" or the "Royal Domain".

Prior to the reign of King Kamehameha V, the Crown Lands were considered to be the private domain of the King, and he could sell, mortgage, or otherwise deal with such lands as his private property without any limitation. During his reign, King Kamehameha V declared these Crown Lands to be inalienable, and it appears that it was so regarded, and thereafter King Lunalilo, King Kalakaua, and Queen Liliuokalani were deemed to have been entitled to only the income from these Crown Lands.

Upon the abdication of Queen Liliuokalani, the Crown Lands were deemed to be part of the public lands of the Republic of Hawaii, and upon the annexation of Hawaii by the United States of America, these Crown Lands thereby became part of the Public Lands of the United States of America. It appears that the three Hawaiian royal families who were and who should be entitled to the Crown Lands were deprived of their property and property rights in the Crown Lands.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 109 and recommends its adoption.

Signed by all members of the Committee. Senators Ching and Kawasaki did not concur.

SCRep. 1028-76 Judiciary on S.R. No. 392

The purpose of this resolution is to request the Senate Committee on Judiciary to study the current status of trust management fees and commissions, and policies and practices with regard thereto, and report its findings to the Legislature twenty days before the convening of the Regular Session of 1977.

Your Committee finds that the increase in assets held in trust and the number of professional trustees in Hawaii has over the years elevated such trust arrangements to a matter of public concern, and thus certain aspects of trust relationships, particularly administration and management fees and commissions of trustees, have been regulated by statutes.

Your Committee feels that it is the responsibility of the Legislature to continue to scrutinize this area in which it has acted, particularly in view of recently voiced

complaints with regard to trustee fees and commissions, which in some instances reportedly continue to rise in the fact of decreasing income to beneficiaries.

Your Committee recommends that this resolution be amended by having the Department of the Attorney General rather than Committee on Judiciary conduct this study.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 392 as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 392, S.D. 1.

Signed by all members of the Committee.

SCRep. 1029-76 Judiciary on S.R. No. 432

The purpose of this resolution is to request the Committee on Judiciary to study the physiological, medical, and facility of practice aspects of, and the legal problems and ramifications of, statutorily defining and timing the death of a human being, with a view to submitting to the Legislature one or more statutory amendments designed to resolve the present void as completely as found to be possible and to reports its findings and recommendations twenty days prior to the convening of the Regular Session of 1977.

Your Committee finds an impressive number of cases and an unprecedented amount of litigation have occurred in the past year revolving about a legal definition of death applicable to human beings. The Hawaii Revised Statutes currently provides no definition of the term death nor the means by which the time and occurrence of death may be established.

Your Committee feels that a statutory definition of death must be applicable to a range of situations which will arise under the law requiring either magistrates or various professional practitioners to apply the definition with legal certitude and to act with confidence thereupon, i.e., disappearance, posthumous dating and timing of a death for civil or criminal purposes, various forms of fetal demises, issues regarding the simultaneity of deaths, as well as the recently publicized varieties of alleged or apparent deaths, among others.

Your Committee recommends that this resolution be amended by having the Office of the Legislative Reference Bureau rather than the Committee on Judiciary conduct this study.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 432 as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 432, S.D. 1.

Signed by all members of the Committee.

SCRep. 1030-76 Judiciary on S.R. No. 434

The purpose of this resolution is to request the Senate Judiciary Committee to study the various regulatory boards and commissions to determine whether: (1) some should be abolished or consolidated; (2) there is uniformity or whether or not there should be uniformity of compensation or reimbursement made to board and commission members; (3) license fees and other fees should cover the costs of administration or whether such fees now charged are adequate; (4) lay members or public members should compose the majority of the members on some or all regulatory boards and commissions; and (5) such other subject matters which the committee deems appropriate concerning this subject; and to submit its findings and recommendations to the Legislature before the Regular Session of 1977.

Since the reorganization of the State government in 1959 there has been a proliferation of regulatory boards and commissions, most of which have been placed in the Department of Regulatory Agencies for administrative purposes, but many of which have been placed in other executive departments. This multiplicity of regulatory boards and commissions raises a question whether or not all such boards or commissions are necessary.

Your Committee notes that many of the boards and commissions supervise similar occupations and could possibly be combined, while other boards and commissions supervise a profession with only a handful of persons. Other boards and commissions may only be receiving few complaints and are otherwise performing little service to the occupation supervised or the public.

Recent studies have indicated that occupational boards and commissions serve as much to restrict entry into an occupation as to protect the public.

Most of the regulatory boards and commissions have some public members on the board, but in most instances public members do not compose a majority of the membership of the board or commission; and, perhaps in order to protect the public, more representatives of the public should sit on these boards and commissions.

Your Committee feels that the uniformity or lack thereof of the pay and reimbursement for the board and commission members should also be considered. Many of the license fees and other fees were established upon the creation of these boards and commissions and have not since been increased, while perhaps such fees should be increased to cover the costs of administration.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 434 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1031-76 Judiciary on S.R. No. 413

The purpose of this resolution is to request the President of the Senate to appoint a fact-finding Committee to investigate prostitution laws, consider the broad sociological and legal aspects of prostitution in Hawaii, examine and resolve insofar as possible the conflicting claims made relating to existing and proposed statutes, analyze practices and effects of law enforcement and judicial systems within the State, and study the experience of other jurisdictions, for the purpose of providing this Legislature with an authoritative basis for its deliberations on this issue, and to report its findings and recommendations to the Senate twenty days prior to the convening of the Regular Session of 1977.

Increasing public debate regarding prostitution has been reflected in a variety of bills introduced both in the House and in the Senate during the Eighth Legislature, including five bills attaching criminal liability to the patron, two bills which reclassify the prostitute's offense from petty misdemeanor to violation, four bills which decriminalize prostitution itself, and other proposals on which widely disparate testimony concerning prostitution has been received. It is essential to resolve complex questions which have been raised regarding constitutional issues, the correlation between prostitution and other crimes, matters of public health, involvement of organized crime in prostitution, and other areas of concern which must be examined for a realistic appraisal of this subject.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 413 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1032-76 Human Resources on S.R. No. 396

The purpose of this resolution is to request an interim study of the adequacy of the mechanisms and processes relating to the implementation and funding of Human Services Programs.

Your Committee finds that the growing concern about poverty and related social problems has resulted in a multiplicity of federal grant-in-aid legislation and the expenditure of federal funds. Your Committee believes that the state's limited financial resources including federal funds, should be utilized by social programs in the most efficient and effective manner.

Furthermore, your Committee finds that the human services delivery system tend to be single functional rather than multi-functional. As a result, program and project goals are rarely developed with sufficient breadth of awareness to facilitate coordination of problem solving. Oftentimes, these services are offered in an inefficient, duplicative, and bureaucratically confusing manner.

Your Committee is amending the resolution by allowing the Senate Human Resources Committee in cooperation with public-private agencies involved in the delivery of human services to conduct the study of funding and coordination of programs.

Your Committee on Human Resources concurs with the intent and purpose of S.R. No. 396 as amended herein and recommends its adoption in the form attached hereto as S.R.No. 396, S.D. 1.

Signed by all members of the Committee.

SCRep. 1033-76 Housing and Hawaiian Homes on S.R. No. 414

The purpose of this resolution is to request the Senate Committee on Housing and Hawaiian Homes, with the assistance of the Special Assistant for Housing and the Hawaii Housing Authority, to conduct a study to determine alternative schemes of clarification and codification of those chapters of the Hawaii Revised Statutes which relate to State housing programs.

Your Committee finds that there currently exists among the State housing statutes a number of difficulties relating to numeration, organization, and administrative processes which lead to difficulties of administration and interpretation in the application of these programs. A recodification and clarification as requested would therefore be beneficial to the successful implementation of existing housing programs.

Your Committee has amended the resolution to require that the Committee's findings be submitted prior to the Regular Session of 1977.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.R. No. 414, as amended, and recommends its adoption in the form attached hereto as S.R. 414, S.D. 1.

Signed by all members of the Committee.

SCRep. 1034-76 (Joint) Ecology, Environment and Recreation and Economic Development on S.C.R. No. 110

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources to develop expeditiously a management proposal for the adequate protection of Molokini's marine environment, to coordinate the development of this proposal with the Natural Area Reserves System and interested members of the public, and to hold at least one public hearing on the island of Maui at the earliest opportunity prior to drafting regulations.

Your Committees find that the waters surrounding Molokini island include one of the finest marine environments in the State, containing many species which are extremely rare or nonexistent in the rest of the State. This unique and fragile marine environment represents a valuable educational, scientific, and recreational resource to the State and deserves immediate protection.

Your Committees on Ecology, Environment and Recreation and Economic Development concur with the intent and purpose of S.C.R. No. 110 and recommend its adoption.

Signed by all members of the Committees except Senators Yamasaki and Yim.

SCRep. 1035-76 (Joint) Ecology, Environment and Recreation and Economic Development on S.R. No. 416

The purpose of this resolution is to request the Department of Land and Natural Resources to develop expeditiously a management proposal for the adequate protection of Molokini's marine environment, to coordinate the development of this proposal with the Natural Area Reserves System and interested members of the public, and to hold at least one public hearing on the island of Maui at the earliest opportunity prior to drafting regulations.

Your Committees find that the waters surrounding Molokini island include one of the finest marine environments in the State, containing many species which are extremely rare or non-existent in the rest of the State. This unique and fragile marine environment represents a valuable educational, scientific, and recreational resource to the State and deserves immediate protection.

Your Committees on Ecology, Environment and Recreation and Economic Development concur with the intent and purpose of S.R. No. 416 and recommend its adoption.

Signed by all members of the Committees except Senator Yamasaki.

SCRep. 1036-76 (Joint) Economic Development and Ecology, Environment and Recreation on H.C.R. No. 34

The purpose of this Resolution is to provide for an interim committee on Kakaako Shoreline Lands which will create a timetable for the orderly development of a Kakaako waterfront park.

Your Committees learned in public hearing that certain considerations are salient to



future discussions of any plans for a Waterfront Park. Thus, your Committees request that the interim committee consider the following points made by the Department of Transportation: (1) there is a continuing need for the deep-draft harbor facilities consisting of Piers 1 and 2 and related transit-cargo sheds and storage areas; (2) the alternative of replacing these facilities at Barbers Point would be most costly and uneconomical; and (3) the 1995 Master Plan for Honolulu Harbor which was recently submitted to the Governor's office provides for a strip park along the waterfront seaward of the current Food Distribution Center. This plan returns to park use some 30 acres of land formerly reserved for expansion of the Food Distribution Center. Future growth of the Center will be absorbed in the Kapalama area, once this land comes under State control.

Your Committees on Economic Development and Ecology, Environment and Recreation concur with the intent and purpose of H.C.R. No. 34 and recommend that it be referred to your committee on Housing and Hawaiian Homes.

Signed by all members of the Committees except Senators Chong, Yamasaki and Yim.

SCRep. 1037-76 Economic Development on H.C.R. No. 106

The purpose of this Resolution is to support and firmly endorse the establishment of a mass rearing laboratory for fruit fly control and eradication.

Your Committee finds that the proposed mass rearing facility will be constructed and operated primarily with federal funds. The State will be expected to aid the United States Department of Agriculture in site selection and acquisition for the facility and to provide cooperative efforts in field and laboratory research activities.

Your Committee further concurs with the findings of the House Committee on Agriculture as set forth in House Standing Committee Report No. 907-76 (April 12, 1976).

Your Committee on Economic Development concurs with the intent and purpose of H.C.R. No. 106, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 1038-76 (Joint) Ecology, Environment and Recreation and Transportation on H.C.R. No. 97

The purpose of this resolution is to request the Department of Land and Natural Resources to establish the Hulopoe-Manele Marine Life Conservation District and prohibit the anchoring of any vessel in the designated marine conservation district and to request the Departments of Health and Transportation to take corrective measures to ensure that water quality and boating rules are properly enforced.

The Department of Land and Natural Resources, in testifying at a public hearing on this resolution, stated that it is actively pursuing the inclusion of the Hulopoe-Manele complex within the Marine Life Conservation District system, and to this end has a preliminary draft of a proposed regulation which would prohibit taking of coral and other geological features, prohibit fishing activities within Hulopoe Bay, except angling from shore, permit certain legal fishing methods within Manele Bay, reinforce Department of Health regulation on pollution, reinforce Department of Transportation rules and regulations relating to vessels within the conservation district and prohibit overnight camping on the beach within the district. The Office of Environmental Quality Control, testifying also on behalf of the Environmental Council, supported this resolution.

Testimony indicated that there were possible inaccuracies in the second, fourth, and fifth "Whereas" clauses, so your Committees have amended the resolution to delete these clauses. Your Committees have also added the following "Whereas" from a statement by the Maui County Planning Director:

"WHEREAS, Hulopoe-Manele Bay area is recognized as a prime shoreline recreational area, affirmed during the Lanai General Plan and County of Maui Open Space and Recreation Plan preparation."

In addition your Committees have amended the resolution to request the Department of Transportation, after appropriate public hearings on Lanai, Maui, and Oahu, to adopt rules and regulations controlling the anchoring, operation and mooring of vessels within Hulopoe Bay of the Marine Life Conservation District, designating certain areas for anchoring which do not conflict with the intent and purpose of a Marine Life Conservation District, and prohibiting anchoring over live coral beds.

Your Committees on Ecology, Environment and Recreation and Transportation concur with the intent and purpose of H.C.R. No. 97, H.D. 1, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 97, H.D. 1, S.D. 1.

Signed by all members of the Committees.

SCRep. 1039-76 (Joint) Ecology, Environment and Recreation and Ways and Means on S.R. No. 426

The purpose of this resolution is to request the Department of Land and Natural Resources to consider the acquisition of the Hawaii Raceway Park facility and fee title to the land under it.

Your Committees find that the Hawaii Raceway Park provides an alternative to drag racing in the streets and hence promotes public safety and welfare. Campbell Estate, the lessor of the land on which the Park is located, has plans for commercial development of the area and may cancel the lease at any time. Therefore it is appropriate for the State to consider the acquisition of this parcel of land.

However, the concerns expressed in this resolution are primarily in the province of county responsibilities and programs. Your Committees therefore have amended the resolution and the title to direct it to the City and County of Honolulu.

Your Committees on Ecology, Environment and Recreation and Ways and Means concur with the intent and purpose of S.R. No. 426 as amended herein and recommend its adoption in the form attached hereto, as S.R. No. 426, S.D. 1.

Signed by all members of the Committees.

SCRep. 1040-76 Ecology, Environment and Recreation on S.C.R. No. 88

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources to study the natural, historic, and scenic characteristics of Kawainui marsh and abutting public and private lands, to recommend to the Hawaii Historic Places Review Board lands within the area which should be placed on the Hawaii and National Registers of Historic places, to be protected for the preservation of natural and historic features; and to develop a plan for the future use of lands in the area, prior to the completion of which, no major development shall take place in the marsh area.

Your Committee finds that Kawainui Swamp is the last significant remaining tropical freshwater marsh on Oahu and the largest fresh-water marsh in the United States. Despite the historical, scientific, and educational significance of this area, it has never been scientifically evaluated and no actual archeological research has been carried out. Before decisions are made concerning the future of Kawainui, a detailed and comprehensive interdisciplinary study should be undertaken involving specialists in hydrology, soil science, geology, botany, archeology, and other disciplines. The study should establish objectives, policies, and guidelines for actions which would affect the eco-system.

Your Committee has amended the concurrent resolution to make the City and County of Honolulu the lead agency rather than the Department of Land and Natural Resources and to request that the Department of Parks and Recreation, City and County of Honolulu, report its progress toward completion of the plan and its recommendations to the Legislature not less than twenty days prior to the first day of the Regular Session of 1977.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 88 as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 88, S.D. 1.

Signed by all members of the Committees.

SCRep. 1041-76 Ecology, Environment and Recreation on S.R. No. 362

The purpose of this resolution is to request the Department of Land and Natural Resources to study the natural, historic, and scenic characteristics of Kawainui marsh and abutting public and private lands, to recommend to the Hawaii Historic Places Review Board lands within the area which should be placed on the Hawaii and National Registers of Historic places, to be protected for the preservation of natural and historic features; and to develop a plan for the future use of lands in the area, prior to the completion of which, no major development shall take place in the marsh area.

Your Committee finds that Kawainui Swamp is the last significant remaining tropical

freshwater marsh on Oahu and the largest freshwater marsh in the United States. Despite the historical, scientific and educational significance of this area, it has never been scientifically evaluated and no actual archeological research has been carried out. Before decisions are made concerning the future of Kawainui, a detailed and comprehensive interdisciplinary study should be undertaken involving specialists in hydrology, soil science, geology, botany, archeology, and other disciplines. The study should establish objectives, policies, and guidelines for actions which would affect the eco-system.

Your Committee has amended the resolution to make the City and County of Honolulu the lead agency rather than the Department of Land and Natural Resources and to request that the Department of Parks and Recreation, City and County of Honolulu, report its progress toward completion of the plan and its recommendations to the Legislature not less than twenty days prior to the first day of the Regular Session of 1977.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 362, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 362, S.D. 1.

Signed by all members of the Committee.

SCRep. 1042-76 Economic Development on S.R. No. 338

The purpose of this resolution is to request the Congress of the United States to pass a new sugar act.

In public hearing, your Committee learned that, historically, sugar has been one of the most regulated commodities in world trade, a source of tariff revenues for virtually every country in the modern world at one time or another. Virtually all countries regulate domestic supplies and prices, leaving only limited supplies to enter the free market. The U. S. Sugar Act, which was allowed to expire December 31, 1974, was a self-supporting program which provided for orderly marketing on the basis of a quota system. Domestic U. S. prices have been sharply influenced by the speculative impact of free sugar prices. In January, 1974, the New York market price for sugar was \$233 per ton. The price rapidly increased throughout 1974 to peak at \$1,290 a ton in November. However, in January, 1975, the price of sugar had dropped to \$800 per ton. Presently, the price of sugar is \$332 per ton, which will result in a loss for some of Hawaii's sugar producers this year.

Restoration of an import quota system will restore balance in domestic supply and demand and reestablish the stability of our domestic sugar industry and our traditional suppliers. Restoring the Sugar Act quota system will serve three principal functions. It will assure consumers of adequate supplies at reasonable prices, it will restore a balance to the sugar trade, and it will favor recommitment of the sugar industries' resources to increased production of sugar.

Your Committee, in considering the testimony presented in public hearing, has amended the resolution to correct a factual error regarding the percentage of crop lands in sugar production.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 338, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 338, S.D. 1.

Signed by all members of the Committee.

SCRep. 1043-76 Ways and Means on Gov. Msg. No. 148

Recommending that the Senate advise and consent to the nomination of ROBERT K. MAEDA, to the Credit Union Review Board, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1044-76 Ways and Means on Gov. Msg. Nos. 340, 341, 342, 343, 344, 371 and 372

Recommending that the Senate advise and consent to the nomination to the Board of Taxation Review, as follows:

THOMAS C. THAYER, Second Taxation District, Maui, for term ending December 31, 1979;  
KAZUMI KOBAYASHI, Second Taxation District, Maui, for term ending December 31, 1979;  
RICHARD KAMAU, Third Taxation District, Hawaii, for term ending December 31, 1979;  
ERNEST F. MATSUMURA, Third Taxation District, Hawaii, for term ending December 31, 1979.

JOSEPH TOKITA, Fourth Taxation District, Kauai, for term ending December 31, 1979;  
CALVIN J.H. CHUN, First Taxation District, Oahu, for term ending December 31, 1979;  
and  
CEDRIC YAMAMOTO, First Taxation District, Oahu, for term tending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1045-76 Ways and Means on Gov. Msg. No. 373

Recommending that the Senate advise and consent to the nomination of NELL CAMMACK, to the Board of Taxation Review, First Taxation District, Oahu, for term ending December 31, 1976.

Signed by all members of the Committee.

SCRep. 1046-76 Ways and Means on Gov. Msg. No. 448

Recommending that the Senate advise and consent to the nomination of LUTISHA TESAREK, to the Board of Taxation Review, Fourth Taxation District, Kauai, for term ending December 31, 1976.

Signed by all members of the Committee.

SCRep. 1047-76 Ways and Means on Gov. Msg. Nos. 409, 410 and 411

Recommending that the Senate advise and consent to the nominations of HERMAN P. CLARK, JOHN D. BELLINGER, and EDMUND TOMA, to the Stadium Authority, for terms ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1048-76 Economic Development on Gov. Msg. No. 169

Recommending that the Senate advise and consent to the nomination of NORMAN BLOMBERG, to the Advisory Committee on Pesticides, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1049-76 Economic Development on Gov. Msg. No. 254

Recommending that the Senate advise and consent to the nomination of FRED M. OGASAWARA, to the Board of Agriculture, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 1050-76 Higher Education on Gov. Msg. No. 275

Recommending that the Senate advise and consent to the nomination of FRED B. SMALES, to the State Post-Secondary Education Commission, for term ending December 31, 1976.

Signed by all members of the Committee.

SCRep. 1051-76 Higher Education on Gov. Msg. No. 276

Recommending that the Senate advise and consent to the nomination of ROBIN F. LOOMIS, to the State Post-Secondary Education Commission, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 1052-76 Higher Education on Gov. Msg. No. 277

Recommending that the Senate advise and consent to the nomination of GEORGE J. FUKUNAGA, to the State Post-Secondary Education Commission, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1053-76 Higher Education on Gov. Msg. No. 426

Recommending that the Senate advise and consent to the nomination of GEORGE E.

FREITAS, to the State Post-Secondary Education Commission, for term ending December 31, 1977.

Signed by all members of the Committee.

SCRep. 1054-76 Higher Education on Gov. Msg. No. 345

Recommending that the Senate advise and consent to the nomination of HARRIET K. MIZUGUCHI, to the Board of Regents, University of Hawaii, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1055-76 Higher Education on Gov. Msg. No. 346

Recommending that the Senate advise and consent to the nomination of KIYOSHI SASAKI, to the Board of Regents, University of Hawaii, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1056-76 Higher Education on Gov. Msg. No. 347

Recommending that the Senate advise and consent to the nomination of CARL A. CARLSON, JR., to the Board of Regents, University of Hawaii, for term ending December 31, 1978.

Signed by all members of the Committee.

SCRep. 1057-76 Higher Education on Gov. Msg. No. 405

Recommending that the Senate advise and consent to the nomination of SUMIE F. McCABE, to the Western Interstate Commission for Higher Education, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1058-76 Ways and Means on H.B. No. 1399

The purpose of this bill is to give the Board of Land and Natural Resources the authority to grant perpetual easements to private parties. Upon termination or abandonment of the specific purpose for which the easement was granted, a reverter clause to the State is incorporated.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1399, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1059-76 Ways and Means on H.B. No. 2099-76

The purpose of this bill is to provide for replacement volumes of the Hawaii Revised Statutes as a means of updating the HRS and eliminating the need for a bulk revision of the laws of the State. It provides an appropriation of \$75,000 for the initial replacement.

When the Revised Statutes was enacted and published in a set of eight volumes, it was planned that the HRS would be retained as long as possible by updating it on an annual basis by pocket supplements and when such pocket supplementation becomes impracticable by publishing substitute or replacement volumes.

This bill would initiate the replacement program by authorizing the revisor of statutes to replace the present volume 4. All the statutes in force contained in the volume and its 1975 pocket part, together with the laws enacted at this session and classified to volume 4 would be republished in a new volume 4 and volume 4A. Five thousand copies of each volume would be printed, assuring a supply for about 10 years.

In addition, the bill would amend chapter 2, Hawaii Revised Statutes, to expressly provide for the preparation, publication, and distribution of replacement volumes. In the future, replacement volumes can be authorized by the inclusion of sufficient funds in the annual appropriations made for defraying the expenses of the revisor's office.

Your Committee notes that the basic 8-volume set of the Hawaii Revised Statutes sells

for \$50 which was established by section 11, Session Laws of Hawaii 1968, while the supplements now cost \$55 and the volume 8 replacement volume costs \$13. Your Committee requests the Lieutenant Governor to evaluate the fees charged for the various publications, particularly the fee charged for the basic 8-volume set with the possibility of increasing such fees, and to submit recommendations concerning such fees to the 1977 regular session.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2099-76, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1060-76 Ways and Means on H.B. No. 2312-76

The purpose of this bill is to appropriate funds for the planning and construction of the Intake Service Center/Community Correctional Center for Oahu, Hawaii, Kauai, Maui, and the Oahu High Security Facility under the Hawaii Correctional Master Plan.

Your Committee was deeply concerned at the onset that this request for funds represented an overemphasis on facilities rather than on the necessary rehabilitation programs and services within these facilities. We were impressed by some of the points raised on this matter by various concerned community organizations. However, we recognize that the present facilities -- especially at the Hawaii State Prison site -- are antiquated and should be replaced as soon as possible.

After receiving assurances from the Department of Social Services and Housing that it will concentrate its efforts towards the timely development of rehabilitation programs in coordination with the development of the facilities, your Committee has decided to accept the Department's assurances on good faith. Consequently, we are recommending passage of this bill. Your Committee requests that the Department submit to the 1977 session of the Legislature a report on its plans and recommendations for rehabilitation program.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2312-76 and recommends that it be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1061-76 Ways and Means on H.B. No. 2087-76

This bill relates to the preference for bidders on public works contracts where the claim is based on the usage of Hawaii products.

Under present law, a person may claim preference for low bid purposes on any public works or repair and maintenance contract when the specifications include Hawaii products. This bill proposes to limit the preference to those contracts in which the value of the Hawaii products is 51 per cent or more of the total bid price. Also, when the contracting officer estimates that the value of the Hawaii products will not exceed 40 per cent of the estimated bid price, he may waive all Hawaii product preference procedures.

The effect of this bill is that the preference based on Hawaii products will be limited to contracts where there would be a substantial use of the products. The intent is to expedite the bid awarding procedure and facilitate the determination of the lowest bid. Under the existing statutes, the preference has made a difference in only 2 out of 201 awards in 1974 and in only 1 out of 225 in 1975. This bill will eliminate the necessity for a detailed review of preference claims which the records demonstrate have been of little or no consequence in bid awards.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2087-76, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1062-76 Ways and Means on H.B. No. 2056-76

The purpose of this bill is to increase the limit for informal bids on public contracts and public purchases.

Under present law formal bid procedures must be followed by the counties on contracts of \$4,000 or more and by the State on contracts of \$8,000 or more. In the case of the State, informal bid procedures is allowed for contracts between \$4,000 and \$8,000.

The bill provides that informal bidding for purchases cover expenditures between \$4,000 and \$8,000, and informal bidding on public works or the repair and maintenance of the buildings, roads, and other site improvements cover contracts between \$4,000 and \$15,000.

All purchases \$8,000 and over and all public works contracts \$15,000 and over must comply with formal bid procedure.

The recommended change will apply to the State and counties.

Your Committee heard testimony on the Senate version of this bill, S.B. No. 2750-76, and is in favor of the bill as amended by the House of Representatives.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. 2056-76, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1063-76 (Majority) Ways and Means on H.B. No. 2102-76

The purpose of this bill is to establish a government preference for services performed and products manufactured by nonprofit corporations and public agencies operating rehabilitation facilities for physically or mentally handicapped persons.

Establishing a statewide government preference for the services and products of the handicapped will assist in providing greater opportunities for work training and employment to such persons. This bill proposes to establish a 5 per cent preference for services performed by the handicapped.

An additional 5 per cent preference is also proposed with regard to preference for Hawaii products manufactured by the handicapped.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2102-76, 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. Senator Hara did not concur.

SCRep. 1064-76 Ways and Means on H.B. No. 2239-76

The purpose of this bill is to remove the one-half per cent advantage out-of-state bidders and vendors enjoy over local bidders and vendors. Presently local bidders or vendors are required to pay certain taxes which out-of-state bidders are not required to pay.

This bill proposes to amend section 103-53.5, Hawaii Revised Statutes, by adding a 1/2 per cent use tax, in addition to the 4 per cent general excise tax, to the amount of out-of-state bids for the purpose of determining lowest bid.

Out-of-state bids are presently increased by 4 per cent in determining lowest bid when both local and other bidders are involved. The adding of 1/2 per cent will help local bidders and is fair and equitable since local retailers in actuality pay 4-1/2 per cent tax when doing business in the State (1/2 per cent when goods are purchased and 4 per cent when goods are sold).

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2239-76 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1065-76 Ways and Means on H.B. No. 2895-76

The purpose of this special appropriation bill is to provide funds immediately for the construction of interim law school facilities at the University of Hawaii-Manoa in order to maintain accreditation by the American Bar Association and for facilities for programs displaced by the law school.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2895-76, H.D. 1 and recommends that it pass Second Reading and be placed on the

calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1066-76 Ways and Means on S.C.R. No. 113

The purpose of this concurrent resolution is to request the legislative reference bureau to conduct a detailed study and analysis of the taxation of warranty parts and labor of automobiles.

It appears that new car dealers must pay the four per cent general excise tax on warranty parts and labor furnished their customers. A study performed by the Hawaii Automobile Dealers Association finds that of the twenty-two states responding, only two levy a tax on warranty parts and in both these states it is a use tax and not an excise tax. In other states a sales tax is imposed on the initial transaction or sale of the new car which includes the manufacturer's warranty which must be honored by the new car dealer. It appears from this preliminary finding that the taxation of warranty parts and labor at four per cent should be scrutinized to determine if the taxation thereof should be changed.

Your Committee on Ways and Means concurs with the intent and purpose of S.C.R. No. 113 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1067-76 Ways and Means on S.C.R. No. 114

The purpose of this concurrent resolution is to request the Senate Committee on Ways and Means and the House Committee on Finance to perform a joint study of all aspects of the budgetary process, including the planning, programming, and budgeting system.

Each year the budgetary process takes many man hours in the executive and legislative branches. Much of the time is spent converting the information requested by the executive and legislative branches into a form understandable by all parties concerned. Some of the information that is reported in the planning, programming, and budgeting form as required by the Executive Budget Act is changed into other formats for the convenience of the legislators and others. Because of the extra work and changes required, it appears that the whole budgetary process is overdue for an in-depth study of all facets thereof to further simplify the operations of state government and its budgeting procedures.

Your Committee on Ways and Means concurs with the intent and purpose of S.C.R. No. 114 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1068-76 Ways and Means on S.R. No. 21

The purpose of this resolution is to commend the State Employees' Retirement System for its assistance to the Act 105 housing program, and to urge continuation of such participation.

Your Committee finds that adequate housing for the people of the State is a primary social goal of the State and its people. Therefore, the availability of substantial funds to carry out the various housing programs to enable individual ownership of homes is a crucial need of the State. The assistance of the State Employees' Retirement System in facilitating the goal of state housing programs by committing significant portions of its investment funds to such use serves the best interests of the people of the State, and the value of this assistance should be recognized and encouraged.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 21 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1069-76 Ways and Means on S.R. No. 57

The purpose of this resolution is to request the Department of Budget and Finance to do a report on bond sales planned for the next six years, the anticipated impact of such sales on the State's bonded debt requirements, and alternative funding means.

Your Committee finds that sound fiscal policy and practice requires that state debts



be kept within reasonable limits. There has been concern expressed by bond rating analysts as to the State's debt level, in terms of the ability of the State to continue existing patterns of borrowing under favorable interest rates. Should such concerns become reality, the bond rating of the State, currently "AA", will be adversely affected unless the State makes a move to establish voluntary debt service costs limitation. Such a move may avert any threat to the borrowing power of the State. Alternatives funding moreover should be scrutinized also, to assist in avoiding such problems.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 57 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1070-76 Ways and Means on S.R. No. 424

The purpose of this resolution is to urge Congress to extend the general revenue sharing program.

Your Committee finds that general revenue sharing, currently in its fourth year of a five-year funding, has contributed to benefiting the State and our people. The citizen participation intended at the community level has allowed further allocation of resources in a manner most consistent with the needs of the people.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 424 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1071-76 Ways and Means on S.R. No. 437

The purpose of this resolution is to request the Senate Committee on Ways and Means to study deferred compensation plans for state and county employees.

While imaginative personnel and compensation policies are highly desirable for attracting public servants of the highest calibre, in this era of inflation and increased governmental spending, care must be taken that while public employees receive the highest consideration, the public and government fiscal policy are not adversely affected by them. An attractive innovation has been proposed which would enable public employees, apart from the retirement system, to defer receipt of earned income and payment of taxes thereon, until after their retirement from public service. Such a deferred compensation plan would, in most cases, enable retired employees to pay markedly lower taxes on the previously earned income while in a substantially lower tax bracket.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 437 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1072-76 Ways and Means on S.R. No. 425

The purpose of this resolution is to request the Department of Budget and Finance to provide more detailed information on general revenue sharing or its successor act, and to publish a special informational pamphlet thereon.

Your Committee finds that the intent of general revenue sharing is to provide local governments with resources to address locally defined community needs. An integral part of defining local community needs entails citizen participation, wherein citizens are given positive opportunities for input into the defining of needs towards which the resources should be used. The State has not thus far implemented significant citizen participation process in its general revenue sharing budgeting and allocation process. There is, therefore, need for public information regarding general revenue sharing with a view towards informing the public of the processes involved, and other pertinent information.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 425 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1073-76 (Majority) Housing and Hawaiian Homes on H.C.R. No. 110

The purpose of this concurrent resolution is to permit housing on the Vineyard Street Garage site provided that the development of housing is found to be feasible by the Department of Accounting and General Services.

In 1972, the Department of Accounting and General Services (DAGS) started to acquire lands in the Vineyard Street area to construct a parking garage as part of the Hawaii State Capitol Civic Center Master Plan.

In May of 1974, the residents of the area formed a non-profit corporation, the Old Vineyard Street Residents Association, Inc. (OVSRA, Inc.) and requested that they be allowed to utilize a portion of the Vineyard Street Garage site for the construction of housing. Subsequently, a request for a loan was submitted to the Hawaii Housing Authority and granted for \$20,000 in planning money authorized under the provisions of the Housing Development Fund (Act 25, SLH 1968) to prepare feasibility plans for a housing project. The residents given the opportunity to build their own housing would like to plan their own community so that they would be able to retain the elements of their present lifestyle.

The Department of Land and Natural Resources has the authority to lease the Vineyard Street land; however, before a lease may be conveyed the department has indicated that an expression of legislative endorsement, such as a concurrent resolution, will provide the department with sufficient direction to convey a lease to the Old Vineyard Street Residents Association.

Your Committee on Housing concurs with the intent and purpose of H.C.R. No. 110 and recommends its adoption.

Signed by all members of the Committee.  
Senators Anderson and Henderson did not concur.

SCRep. 1074-76 Ways and Means on H.C.R. No. 47

The purpose of this resolution is to approve the report entitled, "A REPORT OF FINDINGS ON ADJUSTMENT TO THE COMPENSATION PLAN", submitted by the personnel directors of the State and counties.

Your Committee notes that the Senate version of this resolution - S.C.R. No. 54 - was heard by your Committee on Human Resources and finds that the purpose of the report is to review the compensation plan which seeks to establish a sound and equitable plan that will assure government employees fair and reasonable compensation for the work they perform, in a manner consistent with a competitive position within the community. The objective being to maintain a proper relationship between classes of positions within and between jurisdiction based on systematic job evaluations. The approved and adopted guidelines recommended by the conference of all personnel directors in the State would apply to both Blue and White Collar classes.

Your Committee on Ways and Means concurs with the intent and purpose of H.C.R. No. 47 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1075-76 Judiciary on S.C.R. No. 63

The purpose of this concurrent resolution is to request Congress and the United States to enact legislation to compensate the Aborigine or Native Hawaiians and the members and descendants of the Hawaiian Royal Family for damages suffered by them at the time of the Annexation of the Hawaiian Islands to the United States of America.

By the Great Mahele of 1848, all the lands in the Hawaiian Kingdom were divided and distributed to wit: One-third (1/3) for the public called "Public Lands"; One-third (1/3) for the King for his use, designated as "Crown Lands"; and One-third (1/3) to the Chiefs.

Prior to the reign of Kamehameha V the Crown Lands were considered to be the private domain of the King, and he could sell, mortgage or otherwise deal with such land as his private property without any limitation. During his reign, King Kamehameha V declared Crown Lands to be inalienable, and it appears that it was regarded and thereafter, King Lunalilo, King Kalakaua and Queen Liliuokalani were deemed to have been only entitled to use of the income from the Crown Lands.

Upon the abdication of the throne by Queen Liliuokalani, the Crown Lands were deemed to be part of the public land of the Hawaiian Republic; and upon the annexation of Hawaii by the United States of America, crown lands thereby became part Public Lands of the United States of America. It appears that persons who were or should be entitled to the Crown Lands were deprived of their property or property rights in the Crown Lands.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 63 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1076-76 Judiciary on S.C.R. No. 74

The purpose of this concurrent resolution is to request the Hawaii Congressional Delegation to lead efforts to defeat S. 1, also known as "The Criminal Justice Reform Act of 1975."

The people of Hawaii are especially sensitive to the infringement of constitutional rights, since Hawaii is the only area of these United States to have experienced the chill of military rule, under martial law which was later found to have been illegally declared, but when in effect, resulted in full suppression of lawful political activity. It appears that the provisions of S. 1 under certain circumstances would place severe penalties on lawful assemblies, and speech and group actions related to public policy.

Your Committee amended the resolution by changing the title of the concurrent resolution by making language changes and by requesting the Hawaii Congressional delegation to oppose any provision of S. 1 which infringes upon the constitutional rights of the public.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 74 as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 74, S.D. 1.

Signed by all members of the Committee.

SCRep. 1077-76 Judiciary on H.B. No. 116

The purpose of this bill is to update provisions of the law relating to exemptions from attachment and the provisions relating to execution. The present statute is antiquated and contains exemptions which have no relation to modern conditions.

Your Committee agrees that amendment to these sections is long overdue.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 116, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1078-76 Housing and Hawaiian Homes on Gov. Msg. No. 154

Recommending that the Senate advise and consent to the nomination of RALPH B. CHERRY, to the Factory-Built Housing Advisory Board, for term ending December 31, 1977.

Signed by all members of the Committee except Senators Toyofuku and Anderson.

SCRep. 1079-76 Transportation on S.C.R. No. 77

The purpose of this concurrent resolution is to temporarily halt any further action on the proposed Waimanalo Airfield site until the "Kentron Study", currently studying the feasibility and environmental impact of this site and other sites, has been completed. The completion of this study is scheduled for early January.

Your Committee has amended S.C.R. No. 77 by deleting the words, "until the "Windward Oahu Regional Plan" has been completed by the Department of Planning and Economic Development", and adding the words "until the date of January 19, 1977", in order to conform to the purpose stated above.

Your Committee on Transportation concurs with the intent and purpose of S.C.R. No. 77, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 77, S.D. 1.

Signed by all members of the Committee.

SCRep. 1080-76 Transportation on S.R. No. 316

The purpose of this resolution is to temporarily halt any further action on the proposed Waimanalo Airfield site until the "Kentron Study", currently studying the feasibility and environmental impact of this site and other sites, has been completed. The completion of this study is scheduled for early January.

Your Committee has amended S.R. No. 316 by deleting the words, "until the "Windward Oahu Regional Plan" has been completed by the Department of Planning and Economic Development", and added the words "until the date of January 19, 1977", in order to conform to the purpose stated above.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 316, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 316, S.D. 1.

Signed by all members of the Committee.

SCRep. 1081-76 Transportation on S.C.R. No. 95

The purpose of this concurrent resolution is to create a funding task force to study and make recommendations to the 1977 legislature on how to implement the recommendations by Arthur Young & Company on solving the Special Funds dilemma.

Your Committee finds that the projected 1977 highway fund deficit will be approximately \$10.5 million dollars due to the elimination of the 3-1/2¢ increased fuel tax and the projected declining fuel consumption rate.

The status of the boat and airport special funds are at this time satisfactory. However, projections by the Department of Transportation indicate that the balance of payments of these special funds will not be able to meet the obligations in the near future.

Your Committee feels that the need is to seek alternative sources to fund all special funds especially the highway deficit, and also to restructure the existing transportation special funding system.

The Task Force will study the Arthur Young & Company proposals to resolve this special fund problem and recommend ways of implementing these proposals to the legislature.

Your Committee on Transportation concurs with the intent and purpose of S.C.R. No. 95 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1082-76 Transportation on S.R. No. 263

The purpose of this resolution is to formulate a Transportation Funding Task Force to study and to implement the Arthur Young study proposals on solving the Department of Transportation special funding dilemma.

Your Committee finds that no existing deficit is expected for 1977 in the Highway Special Fund with the continuance of the 3-1/2¢ fuel tax. However a deficit for 1978 is expected even with the 3-1/2¢ continuance due to the projected declining fuel consumption rate.

The status of the boat and airport special funds are at this time satisfactory. However, projections by the Department of Transportation indicate that the balance of payments of these special funds will deteriorate in the near future.

The need is not for increasing the present fuel tax but to seek alternative sources to fund the special fund and also to restructure the existing transportation special funding system.

The Task Force will study the Arthur Young & Company proposals to resolve this special fund problem and recommend ways of implementing this plan to the legislature.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 263 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1083-76 Transportation on H.B. No. 626

The purpose of this Act is to prevent the spilling of loads from vehicles on highways.

The draft prohibits vehicles from being driven on the highways with a load not entirely on its body unless the load is securely fastened. It also prohibits vehicles from being moved on the highways with a load consisting of material susceptible of being blown or carried by the wind unless such load is covered to effectively prevent it from being blown from the vehicle.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 626, H.D. 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1084-76 Transportation on S.C.R. No. 73

The purpose of this Concurrent Resolution is to request the Department of Transportation and the contractor engaged in the development of the Master Plan for bikeways to make provision for some accommodation of joggers and walkers wherever feasible.

Your Committee finds that in the past, conflicts occur when pedestrians, joggers, and bicyclists fail to yield the right of way to each other. Education of the public is needed in the proper joint usage of the bikeway in order to provide maximum utilization.

Your Committee on Transportation concurs with the intent and purpose of S.C.R. No. 73 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1085-76 (Majority) Transportation on H.C.R. No. 19

The purpose of this Concurrent Resolution is to request the Department of Transportation to plan for a pilot project of interisland ferry service, which, upon approval and appropriation for funding by the Legislature, shall be implemented for a period of one year.

Your Committee held a joint hearing with the House Committee on Energy and Transportation to discuss this matter further. It was learned that McDonald & Halliday, a Seattle based firm, would be willing to operate a ferry system if the state subsidized part of the initial cost through a contingent liable bank loan.

Questions however, were raised on whether or not this operation with state subsidy, would destroy existing ocean services; Sea Flite and Young Brothers. The Department of Transportation proposed an experimental type of craft, the SemiSubmerged Platform to be used in a ferry operation. This craft would service that need of people who want to transport themselves and their car to other islands cheaply and quickly.

Mr. E. Alvey Wright, Department of Transportation, testified that the "SSP" would not interfere with the business of Sea Flite and Young Brothers. It would serve that "specific need" and not any other. Comfort was another factor in its favor because of its structural design, riding on one is much smoother than the conventional type ferry. However, because it is still in the experimental stage, preliminary figures could only be given in operating this type of craft commercially.

Your Committee decided due to the uncertainty of the feasibility of a ferry system, to amend the H.C.R. No. 19, H.D. 1 to limit this project to just planning a pilot project of an interisland ferry service involving all existing type of ferry crafts available, including the "S.S.P." and making its recommendations known to the legislature twenty (20) days before the convening of the 1977 legislature.

Your Committee on Transportation concurs with the intent and purpose of H.C.R. NO. 19, H.D. 1 as amended herein, and recommends H.C.R. No. 19, H.D. 1, S.D. 1, be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Hara.  
Senators George and Soares did not concur.

SCRep. 1086-76 Ways and Means on H.B. No. 2999-76

The purpose of this bill is to establish an additional deputy director in the department of health in charge of administration or other functions as may be assigned by the director of health with the approval of the governor.

Your Committee finds that this new position is needed to strengthen the top level management team of the department, which is the third largest state agency next to the department of education and the University of Hawaii.

Your Committee also finds that funding is not being requested because the salary costs of this position can be absorbed within existing appropriations.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2999-76 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1087-76 Ways and Means on Gov. Msg. No. 414

Recommending that the Senate advise and consent to the nomination of GORDON K. UYEDA, to the Board of Trustees, Employees' Retirement System for term ending December 31, 1981.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1088-76 Legislative Management

Informing the Senate that S.C.R. No. 121, S.R. Nos. 449 to 452, Conf. Com. Rep. Nos. 40-76 to 53-76 and Stand. Com. Rep. Nos. 1020-76 to 1087-76 and 1089-76 to 1092-76 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1089-76 Human Resources on S.R. No. 388

The purpose of this resolution is to request the Department of Social Services and Housing to evaluate the feasibility of entering into a contract with the Habilitat, Inc. to operate the Hawaii Correctional Facility at Koolau, Oahu.

Your Committee has been informed of the work that the Habilitat has been doing in the area of rehabilitative therapy and the apparent success thereby achieved. It is logical that the success of private agencies should be examined and its applicability to government explored. S.R. No. 388 is the vehicle by which legislative permission is granted to the Director of the Department of Social Services and Housing to do just this.

Attention has been called to your Committee that there already exists a working relationship between the Department of Social Services and Housing and the Habilitat and that certain financial arrangements have been made in the past.

Your Committee has amended the resolution to not only request the Director of the Department of Social Services and Housing to evaluate the feasibility of contracting with the Habilitat to operate the Hawaii Youth Correctional Facility, but to describe the existing relationship between the department and the Habilitat.

Your Committee on Human Resources concurs with the intent and purpose of S.R. No. 388, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 388, S.D. 1.

Signed by all members of the Committee except Senators R. Wong and Anderson.

SCRep. 1090-76 Judiciary on H.C.R. No. 57

The purpose of this concurrent resolution is to request Congress of the United States of America to enact legislation to compensate the aborigine or native Hawaiians, deemed entitled thereto, for damages suffered by them as a result of the annexation of the Hawaiian Islands to the United States of America.

Your Committee finds that prior to the annexation of Hawaii by the United States of America, the administering of all lands of Hawaii was provided for by the monarchy. After the overthrow of the monarchy, the government of the United States displayed a blatant disregard and disrespect for the Hawaiian heritage by acquiring lands which

heretofore provided for the benefit, liberal use, and enjoyment of the aborigine or native Hawaiians.

Your Committee further finds that aborigine or native Hawaiians were deprived of certain property rights as the result of the annexation of these islands by the United States of America without compensation.

Your Committee on Judiciary concurs with the intent and purpose of H.C.R. No. 57 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1091-76 Judiciary on H.C.R. No. 81

The purpose of this concurrent resolution is to request the Hawaii Bankers Association to work toward the establishment of a special Information Bank containing the names of persons who misuse their checking accounts and to have the Prosecutors office make every effort to prosecute habitual abusers of checking accounts to the fullest extent of the law.

It has been estimated that Hawaii businesses lose \$8,000,000 to \$10,000,000 annually as a result of bad checks and that three per cent of the total amount of persons who have checking accounts are responsible for over forty per cent of the losses. The losses caused by bad checks affect all consumers as it increases the cost of doing business and this cost is reflected in higher prices.

The implementation of an Information Bank of persons who habitually abuse checking accounts should help to reduce the amount of bad checks written. If a bank is aware that a person who applies for a checking account is someone who has previously abused the use of a checking account, it could exercise discretion in accepting the application.

Your Committee on Judiciary concurs with the intent and purpose of H.C.R. No. 81, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1092-76 Judiciary on H.C.R. No. 100

The purpose of this concurrent resolution is to request the Governor to create by executive order a Juvenile Justice Coordinating Council to be given the tasks provided for in the State Juvenile Justice Plan and under the States' Juvenile Justice and Delinquency Prevention Act of 1974.

Congress passed the above-mentioned Act, Public Law 93-415, to provide resources, leadership and coordination for preventing and reducing juvenile delinquency and assisting states with their programs in juvenile justice and delinquency prevention.

A requirement of the Juvenile Justice Act which must be met before funding is made available is that the State must create "an advisory group appointed by the Governor to advise the State Law Enforcement and Juvenile Delinquency Planning Agency and its supervisory board." Said Act provides specific guidelines concerning the composition of this advisory group which are consonant with the provisions of this concurrent resolution.

The State of Hawaii Juvenile Justice Plan was developed by the State Law Enforcement and Juvenile Delinquency Planning Agency in 1974 to provide a coordinated State strategy in preventing juvenile delinquency through an effective juvenile justice system and the maximum use of community resources for treatment and prevention.

The Juvenile Justice Plan contemplates the creation of a Juvenile Justice Coordinating Council of a limited existence to (1) develop an Office of Youth Services which will have the role of orderly planning, evaluation and coordination of social services for youth; (2) determine the services and programs required for youth within the juvenile justice system; and (3) develop an effective coordinated effort by agencies to deliver these services and programs.

Your Committee on Judiciary concurs with the intent and purpose of H.C.R. No. 100 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1093-76 Ecology, Environment and Recreation on Gov. Msg. Nos. 395, 396 and 397

Recommending that the Senate advise and consent to the nomination to the Environmental Quality Commission, as follows:

ALAN M. GODA, for term ending December 31, 1979;  
 JOSEPH E.K. AKANA, for term ending December 31, 1977; and  
 DR. NATHAN C. BUREANK, JR., for term ending December 31, 1979.

Signed by all members of the Committee except Senator Nishimura.

SCRep. 1094-76 Ecology, Environment and Recreation on Gov. Msg. No. 398

Recommending that the Senate advise and consent to the nomination of STANLEY M. AKITA, to the Fish and Wildlife Advisory Committee, City and County of Honolulu, for term ending December 31, 1977.

Signed by all members of the Committee except Senator Nishimura.

SCRep. 1095-76 Ecology, Environment and Recreation on Gov. Msg. Nos. 429, 430, 431, 432 and 433

Recommending that the Senate advise and consent to the nomination to the Fish and Wildlife Advisory Committee, County of Hawaii, as follows:

CHARLES K. MARTIN, for term ending December 31, 1977;  
 HENRY S. HARA, for term ending December 31, 1977;  
 EARL J. PACHECO, for term ending December 31, 1976;  
 JAMES Y.C. LEE, for term ending December 31, 1976; and  
 ALVIN I. TANAKA, for term ending December 31, 1976.

Signed by all members of the Committee except Senator Nishimura.

SCRep. 1096-76 Legislative Management

Informing the Senate that S.C.R. Nos. 122 and 123, S.R. Nos. 453 to 463, Stand. Com. Rep. Nos. 1093-76 to 1095-76 and 1097-76 and Gov. Msg. No. 467 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1097-76 Housing and Hawaiian Homes on H.C.R. No. 34

The purpose of this concurrent resolution is to provide for an interim committee on Kakaako shoreline lands which will create a timetable for the orderly development of a Kakaako waterfront park.

Among the major planning concerns in the waterfront are the proposed waterfront park, the food distribution center, and the container facility. Your Committee agrees that planning should proceed on the waterfront park, however, in that decisions and plans regarding the final mix and development of each of these uses will have a significant bearing on the ultimate character of Kakaako, your Committee strongly recommends that the proposed interim committee in its deliberations give consideration to the Hawaii community development authority's community development plan for the Kakaako district.

Your Committee on Housing and Hawaiian Homes concurs with the intent and purpose of H.C.R. No. 34 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1098-76 Judiciary on H.C.R. No. 119

The purpose of this concurrent resolution is to request the Department of Social Services and Housing, in conjunction with the Judiciary and the Board of Parole and Pardons, to consider the issue of mandatory sentencing, and to state their respective policy positions as to whether such a system should be adopted in Hawaii, and if so, for which crimes and which offenders, and to report their policy positions and recommendations to the Legislature twenty days prior to the convening of the Regular Session of 1977.

Your Committee on Judiciary concurs with the intent and purpose of H.C.R. No. 119 and recommends its adoption.



Signed by all members of the Committee except Senator George.

SCRep. 1099-76    Judiciary on S.C.R. No. 96

The purpose of this concurrent resolution is to request the U.S. Department of State to petition the governments of the United Kingdom, the Union of Soviet Socialist Republics, Japan, Australia, New Zealand, and France to loan to the State of Hawaii, for exhibition during 1978, such artifacts and documents, held by the governments, museums, and libraries of these nations, which are related to the European arrival in Hawaii during the eighteenth century, in observance of this bicentennial, for viewing by the visitors to and residents of Hawaii and by scholars of all nations.

Your Committee on Judiciary is in accord with the intent and purpose of S.C.R. No. 96 and recommends its adoption.

Signed by all members of the Committee except Senator George.

SCRep. 1100-76    Legislative Management

Informing the Senate that S.R. No. 464, Conf. Com. Rep. Nos. 54-76 to 68-76 and Stand. Com. Rep. Nos. 1098-76 and 1099-76 have been printed and are ready for distribution.

Signed by all members of the Committee.