

SPECIAL COMMITTEE REPORT

Spec. Com. Rep. 1

Your Committee on Credentials begs leave to report that it has examined the Certificate of Election of the Senate of the Tenth Legislature of the State of Hawaii, Regular Session of 1979, and finds that the following persons have been legally elected and are fully qualified to sit as members of the Senate.

The newly elected Senators whose respective terms of office will expire November 4, 1980 are:

FIRST SENATORIAL DISTRICT

Dante K. Carpenter
Stanley I. Hara

SECOND SENATORIAL DISTRICT

Mamoru Yamasaki

THIRD SENATORIAL DISTRICT

Ralph K. Ajifu
Mary George

FOURTH SENATORIAL DISTRICT

Norman Mizuguchi
Patsy K. Young

FIFTH SENATORIAL DISTRICT

Richard S. H. Wong
T. C. Yim

SIXTH SENATORIAL DISTRICT

John S. Carroll
Anson Chong

SEVENTH SENATORIAL DISTRICT

Dennis O'Connor
W. Buddy Soares

The newly elected Senators whose respective terms of office will expire November 2, 1982 are:

FIRST SENATORIAL DISTRICT

John T. Ushijima

SECOND SENATORIAL DISTRICT

Henry T. Takitani

THIRD SENATORIAL DISTRICT

D. G. Anderson

FOURTH SENATORIAL DISTRICT

Benjamin J. Cayetano
Joseph T. Kuroda

FIFTH SENATORIAL DISTRICT

Charles M. Campbell
Duke T. Kawasaki

SIXTH SENATORIAL DISTRICT

Neil Abercrombie
Wadsworth Yee

SEVENTH SENATORIAL DISTRICT

Steve Cobb
Patricia Saiki

EIGHTH SENATORIAL DISTRICT

George H. Toyofuku

Signed by Senators Kawasaki, Chong and Saiki.

CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. No. 1 on S.B. No. 393

The purpose of this bill is to provide for uniform treatment of misdemeanor and felony offenders in obtaining expungement orders after obtaining dismissals of charges in deferred acceptance of guilty pleas (DAGP) cases.

Under the present wording of subsection (e), section 853-1, Hawaii Revised Statutes, a misdemeanor offender is treated less favorably than a felony offender in the relief he may obtain on dismissal of charges in a DAGP case. This results from the present language requiring retention of the misdemeanor records at the county police department. Accordingly, the misdemeanant cannot obtain records where entitled under section 831-3.2, Hawaii Revised Statutes, because the records are not forwarded to the attorney general as would be the case with a similarly situated felon. S.B. No. 393, S.D. 1, H.D. 1 will eliminate this illogical distinction and bring DAGP dismissal cases into conformity with the relief given all other nonconviction cases under section 831-3.2, Hawaii Revised Statutes.

S.B. No. 393, S.D. 1, H.D. 1 also provides for retroactive relief for those DAGP misdemeanor cases granted expungement orders under the present wording of subsection (e). Pursuant to section 3 of the bill, records in those cases must be transmitted to the attorney general. The attorney general will, on receipt of the records, return all fingerprints and photographs to entitled persons granted expungement orders.

Your Committee, upon further consideration, has amended S.B. No. 393, S.D. 1, H.D. 1 to state that the defendant may apply for expungement not less than one year following discharge. Your Committee felt that this change would have the same effect as the language of S.B. No. 393, S.D. 1, H.D. 1; that the one-year retention of records would limit those frequent offenders who abuse the DAG plea by continually clearing their records, thus appearing as first-time offenders in court. This abuse is strictly contrary to the original intent of the DAG plea. The amendment, however, would place greater responsibility on the defendant to track the length of the one-year period.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 393, 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. 393, S.D. 1, H.D. 1, C.D. 1.

Senators O'Connor, Ushijima and Carroll
Managers on the part of the Senate

Representatives Yamada, Honda, Aki, Nakamura, Shito and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 2 on S.B. No. 86

The purpose of this bill is to permit the writing of and to make available package or multi-peril insurance policies covering commercial risks.

Permitting the purchase of multi-peril policies will simplify the writing of commercial insurance, lower the cost of policy writing, accounting and premium collection, and simplify the purchase of such insurance. This bill will also provide for a reduction in the cost of premiums to policy subscribers because of the streamlining of the writing process.

Your Committee conferees have agreed to amend this bill by adding a new section providing for the division of premiums, and for the preparation of rating sheets and selection of rating factors including classifications, premium basis and rates used in premium computation by the insurance commissioner. It is the intention of the conferees that the insurance forms showing how the ratings are computed be clearly and simply stated, for the benefit of the purchasers of such coverage.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 86, 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. 86, S.D. 1, H.D. 1, C.D. 1.

Senators Cobb, Kuroda and Carroll
Managers on the part of the Senate

Representatives Blair, Aki, Baker, Dods, Honda and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 3 on H.B. No. 544

The purpose of this bill is to amend Section 386-82 of the Hawaii Revised Statutes to provide that the time limitations on the filing of claims for workers' compensation benefits shall not apply to claims for injury or disease resulting from exposure to asbestos.

The harmful effects of exposure to asbestos and other minerals or substances in industrial use that can cause cancer or other injuries or diseases may not become manifest for many years. In some cases definitive diagnoses of actual harm may not be possible until more than a decade has elapsed. In other situations there are no simple means for identifying and measuring dangerous exposure levels. The common use of asbestos and other minerals or substances with carcinogenic properties in industry has subjected and will continue to subject many workers to possible injury or disease. Should they become victims of cancer or other injuries and diseases due to such exposure, their rights, as well as the rights of their dependents, to workers' compensation benefits must be protected.

The first paragraph of Section 386-82 presently requires that claims for compensation be filed within two years after the effects of an injury have become manifest, but in no event later than five years from the date of the accident or occurrence causing the injury. The second paragraph thereof, however, provides that the foregoing limitations are inapplicable where claims are based on occupational exposure to certain minerals and substances listed herein or to radiation. Such claims may be filed within two years of the discovery of injury even though more than five years have elapsed since exposure. The paragraph does not cover exposure to asbestos and other substances recognized to be carcinogenic. H.B. 544, S.D. 1, proposes to cure this defect by making the limitations of the first paragraph inapplicable to all claims based on harmful exposure to asbestos.

Upon further consideration of the bill, your Committee is of the opinion that Section 386-82 of the Hawaii Revised Statutes should be amended to provide that claims premised on occupational exposure to recognized carcinogenic substances may be filed within two years after discovery of the injurious effects, even though more than five years have elapsed since exposure.

Your Committee has, therefore, amended H.B. No. 544, S.D. 1, by adding the phrase "or other mineral or substance with carcinogenic properties, as incorporated in the Hawaii Occupational Safety and Health Standards", as well as the term "asbestos", to the second paragraph of Section 386-82. We are thereby restricting the recognized carcinogenic minerals or substances in said paragraph to those established by the National Institute of Occupational Safety and Health (NIOSH) and incorporated into the Hawaii Occupational Safety and Health Standards as "carcinogens" but are nevertheless covering a wide range of harmful substances. This will also make it unnecessary to amend the section with each new finding related to cancer-causing substances.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 544, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 544, S.D. 1, C.D. 1.

Senators Toyofuku, Yamasaki and Anderson
Managers on the part of the Senate

Representatives Takamine, Dods, Hagino, Say and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 4 on H.B. No. 1627

The purpose of this bill is to amend section 3494, Hawaii Revised Statutes, to state more clearly the role and duty of the policy advisory board for elderly affairs, and to permit the board to determine whether or not to allow its ex officio members voting privileges at board meetings by deleting the provision that they shall be nonvoting members; to increase the number of ex officio board members from twentyseven to twenty-nine; and to amend section 3499, Hawaii Revised Statutes, to allow each county to establish a county office on aging and a county council on aging pursuant to the Older American Act of 1965, as amended.

Your Committee has amended the bill by adding underlining to the words "level agencies and organizations for the elderly." in Section 2 of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1627, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1627, S.D. 1, C.D. 1.

Senators Cayetano, Hara, Kawasaki, Toyofuku and Soares
Managers on the part of the Senate

Representatives Aki, Ige, Segawa, Shito and Sutton
Managers on the part of the House

Conf. Com. Rep. No. 5 on H.B. No. 1140

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

Your Committee has reviewed the bill and emphasizes that it contains no substantive amendments or changes to the statutes. All of the changes listed in the memorandum used in the explanation in House Standing Committee Report No. 628 are purely technical and clerical.

Your Committee has consulted with the Office of the Legislative Reference Bureau and has made the following technical, nonsubstantive amendment:

On page 13, line 16, the reference to section 84-17(g) which is to be removed is now bracketed, and the new reference to section 84-17(d) is underscored. This is to reflect the style used throughout the Hawaii Revised Statutes when an incorrect reference to a subsection is corrected. The reference to section 84-17(g) was due to a clerical error made when section 84-31.5 was enacted and the correction was corrected by the revisor without the identifying brackets.

Your Committee wishes to commend the revisor of statutes for his meticulous work on this bill which corrects many of the misleading errors in the Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1140, 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. 1140, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Yamada, Blair, Honda, Lee, Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 6 on H.B. No. 748

The purpose of this bill is to amend the definition of "apartment owner" within the meaning of the Horizontal Property Regime to mean the lessee of an apartment whose lease is registered or recorded.

Present law provides that an apartment lessee is considered to be the owner thereof for purposes such as voting rights and other privileges of ownership if the lease has been filed with the board of directors. This bill would require that an apartment lease be registered with the Land Court under Chapter 501 or recorded at the Bureau of Conveyances under Chapter 502, Hawaii Revised Statutes, in order that the lessee be considered the owner for purposes of the Horizontal Property Regime.

Your Committee is in accord with the policy of this bill that all documents pertaining to the conveyance of real property interests should be registered with the Land Court or recorded with the Bureau of Conveyances. Your Committees feel that this bill will clarify the definition and prevent the anomaly of the landowner of leasehold apartments claiming to be the apartment owner for voting purposes under the Horizontal Property Regime Act.

Your Committee has, however, made a minor amendment to the bill to reflect the addition of the registration and recording requirement.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 748, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 748, S.D. 1, C.D. 1.

Senators Young, Hara and Soares
Managers on the part of the Senate

Representatives Blair, Aki, Baker, Lee, Shito and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 7 on H.B. No. 1341

The purpose of this bill is to amend Section 516-1(5), Hawaii Revised Statutes to amend the definition of "lease".

This bill would reduce the term of a lease from thirty-five to twenty years from the initial date of conveyance. This reduction in the length of the term of the lease will permit a greater number of lessees to enjoy the rights and privileges of Chapter 516, especially the right to petition for condemnation and acquisition of the fee title.

While in accord with the intent of the bill, your Committee has deleted Section 2 dealing with further purchase of lots in designated tracts. Your Committee feels that this issue should be examined in more detail and requires the opportunity for public input to be presented to both Houses. Your Committee, therefore does not oppose the concept of Section 2, but instead would like to further deliberate on the merits of such an addition.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1341, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1341, S.D. 1, C.D. 1.

Senators Young, Hara and Ajifu
Managers on the part of the Senate

Representatives Blair, Aki, Baker, Lee, Shito and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 8 on S.B. No. 9

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978 and ratified by the voters on November 7, 1978. The pertinent language of Article II, to which such conformance is addressed by this bill reads as follows:

"Section 4. The legislature shall provide for the registration of voters and for absentee voting and shall prescribe the method of voting at all elections. Secrecy of voting shall be preserved; provided that no person shall be required to declare a party preference or nonpartisanship as a condition of voting in any primary or special primary election. Secrecy of voting and choice of political party affiliation or nonpartisanship shall be preserved."

The primary concern of your Committee in conforming the Hawaii Revised Statutes, Chapters 11, 12 and 16, to changes in the Hawaii State Constitution has been to delete all references to party preference or nonpartisanship as a prerequisite to voting in a primary or special primary election.

In deleting such references, your Committee believes that S.B. No. 9, S.D. 1, H.D. 1 as amended, properly implements the mandate of Article II, Section 4, to "permit secrecy of voting and choice of party affiliation."

Initially, it should be made clear, that this bill has not changed our present election system to a pure "open" primary system as such concern is not addressed by the language of Article II, Section 4, and does not reflect the present or historical primary election system in Hawaii.

It should also be noted, that S.B. No. 9, S.D. 1, H.D. 1, as amended has retained the current status of the law by restricting the voter's choice to candidates of only one party or nonpartisan. It is again the concern of your Committee to fully implement Article II, Section 4, to allow for secrecy of voting, but within the confines of the present election system.

Your Committee considered as crucial to the proper examination of this bill, the determination of who shall decide the format of the primary election ballot. S.B. No. 9, S.D. 1 allowed the chief election officer the discretion to determine what format to use. S.B. No. 9, S.D. 1, H.D. 1 however, prescribed the format of the primary election ballot by law.

It was the decided opinion of your Committee that by requiring the chief election officer to have a separate ballot for each party and a separate ballot for all nonpartisan candidates, that the ballot would appear to be less confusing to the voter, thereby minimizing the number of "spoiled" ballots voted at each primary election.

As a further amendment to this bill, a provision has been added which restricts the placement of the names of all candidates from the same party seeking the same office to one side of the ballot. It is the intent of your Committee by this amendment, not only to further clarify the placement of names on the ballot, but also to prevent the splitting of names of candidates within the same category or office which might unduly penalize a candidate whose name is not placed with the rest of the candidates.

A housekeeping provision pertaining to section 16-42, Hawaii Revised Statutes, which was contained in S.B. No. 9, S.D. 1, and was deleted in S.B. No. 9, S.D. 1, H.D. 1 has been retained in this amended form of the bill to allow for deletion of the provision requiring tabulation of the board of education ballot at all primary and special primary elections. In view of Article X, Section 2 of the Hawaii State Constitution which requires that board members be elected in a nonpartisan manner, Section 10 of the bill pertaining to section 12-41 deletes reference to the board of education with regard to the result of a primary election. Thus, the amendments to section 16-42 have been made so as to conform the section to the changes made to section 12-41 in this bill.

Your Committee has also made several nonsubstantive word or style changes of a technical nature to this bill, and has corrected typographical errors both in the present law and the bill itself.

(1) In section 11-24 the word "country" has been deleted and replaced with the word "county" to correct a typographical error in the present law.

(2) The word "on" as it pertains to the closing of the general register on a Saturday, Sunday or holiday has been replaced with the word "a" to conform this phrase with the wording of paragraph (1) of this section.

(3) The word "subdivision" in section 11-72 has been replaced by the word "subparagraph" to clarify this particular reference.

(4) The use of the word "then" in section 11-72 for purposes of ranking various kinds of voter information has been replaced by the words "and second."

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 9, 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. 9, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Yamada, Aki, Honda, Nakamura, Shito and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 9 on S.B. No. 11

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution as amended by the voters at the general election of 1978. The specific language of Article II, section 8 to which conformance is addressed by this bill reads as follows:

"Special and primary elections may be held as provided by law; provided that in no case shall any primary election precede a general election by less than forty-five days."

Under the provisions of S.B. No. 11, H.D. 1, the date of the primary election shall be the second to the last Saturday in September in every even numbered year. Your Committee finds that this date will effectively implement Article II, section 8 by setting the date of each primary election exactly forty-five days prior to the general election.

To further ensure that the mandate of Article II, section 8 is properly complied with, however, your Committee has amended S.B. No. 11, H.D. 1, by adding of a proviso that no primary election shall precede a general election by less than forty-five days.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 11, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 11, H.D. 1, C.D. 1.

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

Representatives Yamada, Dods, Honda, Masutani, Jr., Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 10 on S.B. No. 42

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978 and ratified by the voters on November 7, 1978. The changes imposed by Article XIV pertinent to the bill are addressed to the adoption of a code of ethics by the legislature and the administration by the state ethics commission of the code of ethics adopted by the Constitutional Convention.

Your Committee, upon analysis of Article XIV, notes that it requires:

(1) Prohibition of members of the state ethics commission from active participation in political management or campaigns.

(2) Selection of its members "in a manner which assures their independence and impartiality."

(3) "Provisions on gifts, confidential information, use of position, contracts and government agencies, post-employment, financial disclosures and lobbyist registration and restrictions."

S.B. No. 42, C.D. 1 is essentially in the form of S.D. 1, which accomplished the foregoing purpose as stated in Standing Committee Reports No. 37 and No. 949. S.B. No. 42 in the form of S.D. 1 had been amended by H.D. 1 only with respect to technical matters.

Your Committee in arriving at the version of C.D. 1 has amended the bill by making the following and additional technical changes:

(1) The replacement of the word "or" by "and" was made in subsection 84-17(d)(1) to correct a typographical error.

(2) The replacement of the word "or" by "of the" was made to subsection 84-31 (c) with respect to divulgence of contents of disclosures to conform to identical language found in subsection 84-17(e).

(3) A spelling change was made of the word "proceeding", found in section 84-32(b).

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 42, 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. 42, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Yamada, Honda, Baker, Blair, Larsen and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 11 on S.B. No. 182

The purpose of S.B. No. 182, S.D. 1, H.D. 1 is to make revisions to sections 706-606.5, Hawaii Revised Statutes, dealing with sentencing of repeat offenders. Your Committee upon further consideration amended this bill to return substantially to the form of S.B. No. 182, S.D. 1.

This bill now provides that subsequent convictions for any of the types of crimes enumerated would make a person a repeat offender, subject to a mandatory minimum sentence. However, the subsequent offense must have occurred within the time of the maximum sentence of the prior conviction. For example, if the first offense was assault in the first degree, a class B felony under section 707-710, Hawaii Revised Statutes, the maximum sentence is 10 years (section 706-660, Hawaii Revised Statutes). If, within this ten year period, (measured from the time of sentencing), a second of the enumerated offenses is committed, the person would be subject to the mandatory minimum sentence of five years.

Your Committee feels that S.B. No. 182, S.D. 1, H.D. 1, C.D. 1 will best alleviate those concerns that the repeat offender problem must be seriously dealt with. It also provides a practical use for maximum sentences.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 182, 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. 182, S.D. 1, H.D. 1, C.D. 1.

Senators O'Connor, Cobb and Carroll
Managers on the part of the Senate

Representatives Yamada, Blair, Dods, Honda, Lee and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 12 on S.B. No. 919

The purpose of this bill is to allow the Criminal Injuries Compensation Commission Annual Report and its annual budgetary bill to be prepared and submitted without listing the names of the awardees.

Your Committee appreciates that the mere spectre of the possibility of being subjected to the publicity involved in the listing of one's name could deter a victim from seeking rightful compensation for a criminal injury inflicted upon him. This is particularly true of a victim who may have been subjected to a very shameful ordeal, or one who may be of a timid nature.

It was never the intent of the legislature that criminal compensation would result in an additional ordeal for a victim of crime or to expose such victim to unnecessary publicity.

However, we would caution the Criminal Injuries Compensation Commission that it is expected to retain a record of its awards and proceedings so that at any time the legislature may obtain a reasonably thorough record of its affairs for the purpose of public accounting.

S.B. No. 919 in the form of C.D. 1 reverts to the version of S.D. 1 except that a provision that the criminal injuries compensation commission shall provide relevant data, including names of the applicant, upon request by the governor, the director of finance, or the legislature has been added.

Your Committee realizes that an appropriate function of the reporting requirement under section 351-70 is to enable the public to acquire a reasonable and meaningful grasp of how the process of criminal injury compensation functions. Although the omission of the names of the injured awardees will preserve their privacy, a time may arrive when a more precise scrutiny of the compensation process will be warranted.

It is expected that the request for relevant data, particularly the names of applicants, will be judiciously made and handled so as to reasonably balance the need for pertinent scrutiny against the right to preservation of personal privacy.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 919, 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. 919, S.D. 1, H.D. 1, C.D. 1.

Senators O'Connor, Cobb and Carroll
Managers on the part of the Senate

Representatives Yamada, Baker, Honda, Nakamura and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 13 on S.B. No. 1238

The purpose of this bill is to effect changes to Chapter 671, Hawaii Revised Statutes, and to improve the hearings procedure of the Medical Claim Conciliation Panel (MCCP).

Your Committee finds that current law does not designate which party has the burden of going forward with evidence to substantiate its case. This has led to the untenable situation where parties appearing before the MCCP may both refuse to advance their cases, causing the hearing to become a travesty. This bill provides that the MCCP may designate the party that has the burden of going forward with the evidence and, unless otherwise designated by the Panel, if the claimant has received medical and hospital records for review, it places the initial burden of going forward upon him.

Your Committee also finds that present law requires the insurance company representative to attend a MCCP hearing, notwithstanding the fact that experience has shown that

the representative is not really a necessary party for the purposes of the hearing. This bill eliminates the requirement that such representative attend the hearing.

Finally, your Committee finds that there is no present requirement that notice be given to all parties if a subpoena is used to require testimony of witnesses or the production of documentary evidence. By requiring such notice, this bill alleviates the present occasional practice of one party subpoenaing records without notice to the opposite party who may either be surprised at the introduction of the records or else be forced to go through the expense of subpoenaing the same records himself.

Your Committee, upon further consideration, has made nonsubstantive, stylistic amendments to S.B. No. 1238, S.D. 1, H.D. 1.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1238, 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. 1238, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 14 on S.B. No. 1727

The purpose of this bill is to make assaults against a correctional officer while engaged in duty a class C felony; provided that the violator knows that the person he commits the assault against is a correctional officer.

Your Committee believes that this legislation is necessary to deter the rising number of assaults committed against correctional officers each year.

Your Committee further finds that due to the very nature of a corrections facility, i. e. that it is a secured place of detention, there is a high probability that a correctional worker while not on duty may be assaulted by an inmate within the facility itself.

As a means of deterring such assaults, your Committee has amended S.B. No. 1727, S.D. 1, H.D. 1 to provide that an assault on a correctional worker which occurs within a prison facility shall also be punishable as a class C felony.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1727, 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. 1727, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Yamada, Baker, Honda, Masutani, Jr., Nakamura and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 15 on H.B. No. 438

The purpose of this bill is to neutralize the present rape laws by substituting the word "person" wherever words making a sexual distinction appear.

A recent state circuit court decision, State vs. Sasahara, (Criminal No. 51251, July 14, 1978), held that the provision relating to statutory rape was unconstitutional because there was no reasonable basis for the distinction between male and female, thus, recognizing the fact that a female, as well as a male, can commit the instant offense.

Your Committee, while in agreement with the provisions of this bill, has amended it to retain the word "he" rather than "person", when such term makes reference to the person committing the offense of rape because when used as such, the term is already neutral. Under Section 701-118 of the Hawaii Revised Statutes relating to general definitions of the terms used in the Penal Code, "he" is defined as including any natural person, i. e. male or female, unless a different meaning is plainly required.

Moreover, in accordance with Section 701-118, the entire Code is written in terms of "he" where not inappropriate; thus, using the word "person" in this particular section to refer to the person committing the offense of rape, would be inconsistent with the rest of the Code.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 438, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 438, S.D. 1, C.D. 1.

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

Representatives Yamada, Garcia, Honda, Larsen, Lee and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 16 on H.B. No. 424

The purpose of this bill is to make tampering with a motor vehicle without the consent of the owner or person in charge thereof, criminal tampering in the second degree, a petty misdemeanor.

This bill adds a new subsection to the criminal tampering in the second degree section, including the tampering with a motor vehicle without the owner's consent as part of the behavior prohibited by that section. It also provides exceptions for police officers and tow wagon operators, and for persons who have to tamper with another's vehicle in order to extricate their own from a parking location.

Your Committee, while in basic agreement with the provisions of this bill, feels that an owner of or passenger in a motor vehicle should be permitted to release the brakes and move any unlocked, standing, unattended vehicle blocking or otherwise preventing both ingress as well as egress from a parking location and not just for the purpose of egress as presently stated in the bill. Accordingly, your Committee has amended this bill to effectuate this concern.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 424, 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. 424, H.D. 1, S.D. 1, C.D. 1.

Senators O'Connor, Cobb and Carroll
Managers on the part of the Senate

Representatives Yamada, Aki, Garcia, Honda, Lee and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 17 on H.B. No. 921

The purpose of this bill is to enable an abused spouse or any person residing with another to obtain a court order restraining that other person from contacting, threatening or physically abusing him or her. Under present law such a restraining order is normally granted only after an action for annulment, divorce, or separation has been commenced.

Your Committee has amended the bill to enable applicants for a temporary restraining order to apply for the order themselves, upon forms to be provided by the Family Court. The bill has also been amended to allow applicants and persons to whom a temporary restraining order is directed to represent themselves at the hearing which is required to be held after the issuance of the order. Your Committee feels that these changes will simplify the procedure for handling cases under this chapter.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 921, 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. 921, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Yamada, Baker, Honda, Lee, Nakamura and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 18 on H.B. No. 1232

The purpose of this bill is to streamline the land use regulatory process by amending section 205-6, Hawaii Revised Statutes to provide that only those Special Use Permit requests involving lands with an area greater than fifteen acres shall be subject to approval by the Land Use Commission. All other Special Use Permits would be subject to approval by the appropriate county planning commission.

At present, the Land Use Commission is responsible for reviewing all special permits within the States. However, approximately 75 percent of those permits involve uses which have only local impacts. This bill would service to streamline the land use regulatory system by requiring the Land Use Commission to review only those permits involving land areas of more than fifteen acres. All other special permits would be subject to approval by the appropriate county planning commission. This would thus, enable the Land Use Commission to focus its efforts on those special permits which would have larger impacts of a statewide nature.

Your Committee has amended this bill by deleting the proposed sub-section (c) of Sec. 205-6, Hawaii Revised Statutes. Your committee believes that this sub-section is not necessary.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1232, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1232, S.D. 1, C.D. 1.

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

Representatives Kiyabu, Kawakami, Machida, Stanley and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 19 on H.B. No. 1647

The purpose of this bill is to raise the maximum limit for the University of Hawaii research and training fund and to allow expenditures from the fund for indirect costs connected with research and training contracts and grants.

Section 304-8.1, Hawaii Revised Statutes, establishes a research and training revolving fund into which is deposited ten percent of all income up to a maximum of \$200,000 annually from all University held federal and other research and training grants and contracts. The application of these moneys is restricted by Section 304-8.1 only for use as seed grants to stimulate further research.

Each time the University of Hawaii accepts an extramural grant or contract, the University agrees to pay a portion of the research costs for research-related support services called "indirect overhead costs" which are then reimbursed to the State by the federal government. Presently, these "indirect overhead costs" is 48.5% of every salary dollar in each research grant. In 1978 alone, indirect cost funds amounted to over three and one half million dollars. Of this, only a portion was returned into the research and training revolving fund for two reasons. First, the law currently places a \$200,000 ceiling on the amount of this revolving fund and second, restricts the use of these moneys to stimulating further research.

House Bill 1647, H.D. 2, S.D. 1 raises the maximum ceiling to fifty percent of all income up to a maximum of \$600,000 and expands on the use of these moneys to allow payment for indirect overhead cost.

At a Conference Committee hearing held on H.B. 1647, H.D. 2, S.D. 1 on April 12, 1979, the University substantiated that the complexity of the reimbursement process compounded by the lack of adequate support funds was compelling justification for a thorough assessment and analysis of research overhead support. This study would require the combined expertise of the Department of Budget and Finance and the University of Hawaii.

Your Committee concurs with the University of the need for this review and views passage of this bill as a first step.

Upon further consideration, your Committee has amended H.B. No. 1647, H.D. 2, S.D. 1 by deleting the percentage requirement on page 1, line 6 to better accomplish the purposes set forth in this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1647, 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. 1647, H.D. 2, S.D. 1, C.D. 1.

Senators Cayetano, Abercrombie, Kawasaki and Ajifu
Managers on the part of the Senate

Representatives Ushijima, Kawakami, Machida, Say, Takitani and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 20 on H.B. No. 181

The purpose of this bill is to establish statutory guidelines aimed at simplifying the procedure for reconsideration or rehearing of a Public Utilities Commission (PUC) decision and order in a motor carrier matter.

Present law provides for reconsideration of a PUC decision but retains certain cumbersome procedures. Your Committee is in agreement with the testimony received that a simple procedure that can dispose of a motion for reconsideration or rehearing is desirable and essential. Your Committee finds that this bill effectively simplifies the reconsideration of PUC decisions by deleting unnecessary provisions of the present statute and by providing a procedure whereby a motion can be made for reconsideration or rehearing within ten days of the PUC's decision and order. Parties have been limited by subsection (a) to one motion for reconsideration each to prevent frivolous claims intended to delay the contested rate change from taking effect.

Your Committee finds, however, that certain amendments are necessary to preserve the intent and purpose of this bill:

1. Upon filing of the motion, the PUC's order shall be stayed for a maximum of twenty days, at which time said motion will be deemed denied.

2. A subsection 271-32(b)(2) has been added to clarify the interface of the automatic twenty day stay provision with the five month suspension period of section 271-20(e). This new subsection provides that a change in rate, fare or charge which would otherwise go into effect by operation of section 271-20(e) relating to unconcluded proceedings, shall not be effective if a motion for reconsideration is pending. If said motion is not determined within twenty days, the commission's final decision and order that was moved on will be effective.

3. The conditions required before an appeal can be taken noted in subsection (a) of H.B. No. 181 are clarified in a new subsection (e) whereby the circumstances under which an appeal to the State Supreme Court can be taken are denoted.

Your Committee has made technical, non-substantive changes for purposes of clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. 181, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. 181, H.D. 1, S.D. 1, C.D. 1.

Senators Chong, Yim and Soares
Managers on the part of the Senate

Representatives Blair, Dods, Garcia, Masutani, Jr., Nakamura and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 21 on H.B. No. 1557

The purpose of this bill is to amend the structure of the county committees on the status of women by expanding the scope of their duties and responsibilities, making them more responsive to the mayor and the council of their respective counties.

Your Committee finds that Act 207, Session Laws of Hawaii 1976, repealed the Hawaii State Commission on Children and Youth and created the Office of Children and Youth. Accordingly, your Committee has amended this bill to clarify and conform Sec. 367-4, H.R.S., to Act 207 and has also made various minor typographical changes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1557, 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. 1557, H.D. 1, S.D. 1, C.D. 1.

Senators Ushijima, Abercrombie, Kuroda, O'Connor, Yamasaki, George and Yee
Managers on the part of the Senate

Representatives Yamada, Honda, Garcia, Lee, Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 22 on H.B. No. 1588

The purpose of this bill is to extend the life of Chapter 446D, Hawaii Revised Statutes, relating to degree granting institutions and to require unaccredited degree granting

institutions to disclose their unaccredited status.

Upon review of the bill and reconsideration of the function of Chapter 446D, your Committee has amended the bill to repeal said chapter. Your Committee feels that the continued existence of Chapter 446D does not bear a sufficiently compelling relation to the protection of that part of the public that may deal with degree granting institutions. Instead, your Committee has adopted a disclosure requirement for degree granting institutions that would inform the general public and potential students of the institution's accreditation status. Appropriate sanctions for failure to comply are also provided.

Your Committee feels that this bill as amended will better protect the interests of the public and will permit potential students to make their own informed decision as to their education.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1588, S.D. 2, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1588, S.D. 2, C.D. 1.

Senators Abercrombie, Cobb and Ajifu
Managers on the part of the Senate

Representatives Blair, Aki, Garcia, Machida, Ushijima and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 23 on H.B. No. 80

The purpose of this bill is to confer upon the Executive Office on Aging the general responsibilities of representing the interests of residents of long-term care facilities and promoting the quality of care received by and quality of life of these residents; require long-term care facilities which receive public funds to permit access to the facilities by the Executive Office on Aging; and prohibit retaliatory actions by the facilities or their employees upon residents who seek the advocacy assistance of the Executive Office on Aging.

This advocacy function for institutionalized elderly persons is now a mandate on the State under the federal Older Americans Act, as amended in 1978.

Your Committee has amended H.B. No. 80, H.D. 2, S.D. 1 by amending Section 2 of the bill which adds a new Section to Chapter 349, Hawaii Revised Statutes, so that paragraph (8) of the new Section 349- reads as follows (underlining omitted in this report):

- (8) Establish procedures for appropriate access to files maintained by the Executive Office of Aging, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed unless:

Your Committee has amended the bill to insure that any elderly person seeking advocacy assistance from any available source shall be protected from retaliatory action.

S.D. 1 of H.B. No. 80 used the word "complaint" in place of "complainant" and the word "facilities" in place of "facility".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 80, 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. 80, H.D. 2, S.D. 1, C.D. 1.

Senators Toyofuku, Hara and Anderson
Managers on the part of the Senate

Representatives Aki, Ige, Segawa, Shito and Sutton
Managers on the part of the House

Conf. Com. Rep. No. 24 on H.B. No. 1646

The purpose of this bill is to broaden drivers' license exemptions to include persons holding valid licenses from the District of Columbia, the Commonwealth of Puerto Rico, Panama Canal Zone, U.S. Virgin Islands, American Samoa and Guam.

This bill will provide guidance to drivers' license examiners and end the present discrimination against U.S. citizens caused by the omission of certain jurisdictions in Section 286-105, H.R.S.

Your Committee, upon further consideration, has amended H.B. No. 1646, H.D. 1, S.D. 1, by deleting the exemption for persons with drivers' licenses from the Panama Canal Zone. Your Committee feels that, since the United States is relinquishing its control over the Panama Canal Zone, the driving license standards may not meet the standards of the State of Hawaii. Your Committee believes that, in the best interest and safety of the motoring public, these persons should be licensed with a State of Hawaii driver's license before being permitted to operate a motor vehicle in the state.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1646, 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. 1646, H.D. 1, S.D. 1, C.D. 1.

Senators Mizuguchi, O'Connor, Ushijima and Soares
Managers on the part of the Senate

Senator Ushijima did not sign the report.

Representatives Yamada, Baker, Blair, Honda, Larsen and Medeiros
Managers on the part of the House.

Conf. Com. Rep. No. 25 on H.B. No. 520

The purposes of this bill are to add family planning services to the medical care and services for which a minor may validly consent, remove the references to abortion in the definition of medical care and services, and require a minor's consent prior to the treating physician's approval of the release of, or his actual release of, information about medical services provided the minor except where the minor is diagnosed as being pregnant or as having venereal disease. In these latter cases, the physician would have discretion to release information to a minor's spouse, parent, custodian, or guardian after consultation with the minor.

Twenty-six states and the District of Columbia already have laws similar to H.B. No. 520 allowing minors to go to professional medical practitioners for counseling and medical care related to family planning without the prior consent of their spouses, parents, custodians, or guardians. The intent of these laws is to check the heavy incidence of teen-age pregnancies and teen-age venereal disease.

This bill has been amended to leave the treating physician complete discretion over releasing information about medical counsel or care provided a minor to the minor's spouse, parent, custodian, or guardian.

Your Committee has amended the bill to correct certain typographical matters, to add the Ramseyer clause as Section 2 of the bill, and to renumber Section 2 as Section 3.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 520, 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. 520, H.D. 1, S.D. 2, C.D. 1.

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

Representatives Aki, Kobayashi, Segawa, Shito and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 26 on H.B. No. 1322 (Majority)

The purpose of this bill is to allow the State Health Planning and Development Agency to establish criteria to exempt from the certificate of need requirement, certain proposed expenditures or changes by organized ambulatory health care facilities.

The definition of organized ambulatory health care facilities was written with the intent of including major medical groups under the statute which requires a certificate of need when they establish new facilities. The definition includes however, some 70 or 80 health care providers which are small medical groups, and even some one or two person operations. Because of the definition, these providers require a certificate of need before they can establish a new office or move to a new location.

Your Committee finds that the requirement of the certificate of need for these smaller ambulatory health care facilities is beyond the intent of the law.

Your Committee has amended the bill such that the State Health Planning and Development Agency may adopt rules to "establish criteria" for certain exemptions from the certificate of need requirement.

The words "substantial effect" in Sec. 323D-54(b) have been amended to read "significant impact".

Your Committee has further amended the bill by making a grammatical correction.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1322, 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. 1322, H.D. 1, S.D. 1, C.D. 1.

Senators Carpenter, Abercrombie and Yee
Managers on the part of the Senate

Senator Abercrombie did not concur.

Representatives Segawa, Ige, Kobayashi, Lee and Lacy, Jr.
Managers on the part of the House

Conf. Com. Rep. No. 27 on H.B. No. 1473

The purpose of this bill is to increase the annual grant to the Hawaii Wing, Civil Air Patrol, from \$75,000 to \$100,000, and provides further that not less than \$3,000 be allocated to each Civil Air Patrol unit in the State.

Presently, only units outside the city and county of Honolulu are assured of a full \$3,000 allocation. There are 10 units on Oahu that do not receive any allocation and the intent of this bill is to provide for \$3,000 to each of these Oahu units, treating all units alike throughout the State. However, your Committee agrees that all units receiving this full allotment should meet minimum requirements established by national headquarters of the Civil Air Patrol and this bill accordingly so provides. General conditions for this grant and provisions governing procedures for allotment, monitoring and evaluation are included.

Your Committee agrees that the review procedure set forth in H.B. No. 1473, H.D. 1, S.D. 1, is not necessary and therefore the required review provisions have been deleted.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1473, 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. 1473, H.D. 1., S.D. 1, C.D. 1.

Senators Mizuguchi, Cayetano, Yim and Soares
Managers on the part of the Senate

Senator Yim did not sign the report.

Representatives Suwa, Morioka, Crozier, de Heer, Fukunaga, Hashimoto,
Holt, Ige, Inaba, Kobayashi, Kunimura, Sakamoto, Takitani, Lacy, Jr.,
Narvaes and Sutton
Managers on the part of the House

Conf. Com. Rep. No. 28 on H.B. No. 166

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

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

Your Committee feels that requiring generic drug substitution unless expressly prohibited by the prescriber or refused by the consumer, will function to the benefit of consumers and that resultant cost savings will be realized. Your Committee finds that generic drugs are measurably less expensive at retail than their brand name counterparts in this State and that consumers can benefit from this price differential. It is anticipated that the Board of Pharmacy will respond to the intent of the bill by amending its rules to require dispensers of drugs to disclose, pursuant to request by telephone, the price

of the lowest cost equivalent drug product corresponding to the drug prescribed.

While strongly in agreement with the intent of this bill, your Committee has made several amendments to facilitate implementation. First, all prescriptions will be presumed substitutable unless the prescriber handwrites the words, "do not substitute" on the face of the prescription form. Your Committee feels that this requirement will encourage the prescriber to make a conscious decision to not permit a lower cost substitution when in his or her professional judgment, a specifically named drug is necessary for the patient's health. Your Committee finds that other prescription form requirements used in other jurisdictions have not successfully accomplished this.

Your Committee has also revised the section creating the generic substitution board to clearly specify its composition. Members shall include one representative from the Department of Health, one representative from either the University of Hawaii School of Medicine or School of Public Health, two practicing physicians, and two practicing pharmacists, all of whom shall be appointed by the Governor, who shall also designate the board's chairman. The seventh member shall be the director of the Department of Health.

Your Committee has also deleted the detailed price posting requirement of Section 3 of H.B. No. 166, H.D. 1, S.D. 2, in the belief that the projected amount of benefit to the consumer does not warrant the additional burden placed on pharmacists and other dispensers. Your Committee also feels that the posting requirement contained in the bill as amended is sufficient to inform consumers of their options regarding substitution.

Your Committee has also made organizational changes to the bill and other minor language changes to simplify and clarify its provisions.

Your Committee feels that this bill is the simplest and most efficient means of implementing the cost saving intent of drug substitution and will provide a workable model upon which to monitor and evaluate the program's costs and effects.

Your Committee anticipates that the Legislature will review this Act, not later than the 1981 session, to determine its effectiveness. To that end, the Department is required to monitor the effects of the Act. The Board is expected to cooperate in that effort.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 166, 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. 166, H.D. 1, S.D. 2, C.D. 1.

Senators Carpenter, Campbell, Chong, Cobb and Saiki
Managers on the part of the Senate

Representatives Blair, Aki, Kobayashi, Segawa, Shito and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 29 on H.B. No. 82

The purpose of this bill is to maximize the effectiveness and efficiency of the Hawaii Regulatory Licensing Reform Act.

Under present law the task of preparing the regulatory impact statement falls on the board or commission which is being reviewed for sunset purposes. This bill would retain that procedure with the addition of the Office of Consumer Protection into the review and recommendation phase.

While in agreement with the intent of the bill, your Committee has made substantial changes to the review procedure. Pursuant to consultation with and input from the Legislative Auditor, your Committee has designated the Auditor as the primary reviewer and both the regulatory impact statement and the need for a joint legislative committee has been done away with in Section 1.

Section 2 creates a new two step process whereby the Legislative Auditor first evaluates each board, commission or regulatory program to be reviewed under section 26H-4, Hawaii Revised Statutes, and determines whether the regulatory program established by the chapter is in compliance with the sunset policy of section 26H-2. Should the Legislative Auditor find that the public interest requires continued regulation under the chapter, he shall evaluate the effectiveness of the existing regulatory program and shall submit his recommendations to the legislature for final review. If the Auditor finds that the chapter should be allowed to expire, he is required to submit his recommendations regarding further regulation, if he finds such remedial regulation necessary.

Your Committee feels that this is the most logical approach to review for sunset purposes.

Section 3 provides a new procedure for review of measures proposed to regulate a previously unregulated activity whereby the Director of the Department of Regulatory Agencies shall perform an analysis of each measure, and submit each report of analysis to the Legislature for final action.

Your Committee feels that this bill as amended will better provide for consumer interests to be represented in the aforementioned evaluation and will provide for a more objective viewpoint in assessing the value of the particular regulation under review.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 82, 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. 82, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Blair, Honda, Larsen, Masutani, Jr., Yamada and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 30 on H.B. No. 173

The purpose of this bill is to provide that consumer retail liquor prices not be statutorily set at a minimum level.

Under present law, a schedule of minimum consumer resale prices must be filed with the liquor commission by a manufacturer or wholesaler. Such prices are mandated to be uniform throughout the State and retail sellers are prohibited from selling liquor at prices below said minimum.

Your Committee feels that the present law results in higher prices for consumers by eliminating price competition among retailers. Additionally, your Committee feels that the anti-competitive and antitrust implications of the present law may detract from Hawaii's antitrust law policy.

Your Committee notes that this bill will retain the requirement of wholesale price posting for one year. While agreeable to this extension, your Committee feels that the present language of this bill which would grant said extension may be interpreted to require either the creation of exclusive distributorships in order to sell liquor at wholesale, which is anti-competitive in nature, or would require only those wholesalers who are express distributors to post their prices, a potential violation of equal protection rights. For these reasons, your Committee has amended the language of this bill dealing with section 281-43(a), Hawaii Revised Statutes, to eliminate the distinctions between those sellers required to file a schedule of prices with the liquor commission.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 173, 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. 173, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Blair, Baker, Honda, Masutani, Jr., Uechi and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 31 on H.B. No. 479

The purpose of this bill is to repeal the statutory provisions of sections 459-9(4)(A) and 459-9(11), Hawaii Revised Statutes, which prohibit advertising by optometrists in the public media.

Your Committee finds that in July of 1978, the Federal Trade Commission adopted a trade regulation which preempts state and local laws and mandates the removal of prohibitions on advertising by dispensing opticians, optometrists, and ophthalmologists of their prices or availability of their services. Your Committee is therefore in accord with the intent of this bill to comply with this regulation. Your Committee further feels that allowing advertising will permit the consumer to make informed optical purchase decisions and may lower the price of optometric services and products by providing previously undisclosed price information.

Your Committee has amended the bill by placing the advertising disclosure requirements of section 459-9(3)(A) in a separate section. Your Committee feels that these requirements should apply not only to relicensing standards but to the practice of optometry in general.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 479, 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. 479, H.D. 1, S.D. 1, C.D. 1.

Senators Cobb, Yim and Saiki
Managers on the part of the Senate

Representatives Blair, Garcia, Honda, Larsen, Uechi and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 32 on H.B. No. 531

The purpose of this bill is to increase the maximum estimated cost currently allowed of a building that is planned and allowed to be constructed without first obtaining the certification of an architect or engineer.

Present law provides that a stamp of certification is required on the plans for a proposed building if it is estimated to cost \$35,000 or more for a single-story building and \$30,000 or more for a two-story building. This bill would raise these exemption thresholds to \$50,000 and \$45,000, respectively, for privately owned buildings used for residential purposes.

Your Committee finds that the increased limits reflect the higher costs of construction that currently prevail as compared to the costs of construction at the time the present limits were set. Raising the limits will preserve the original intent of the exemption, that structures of a certain size and cost do not require certification. Your Committee also finds that the safety aspects of uncertified buildings will be adequately regulated by the building codes of the various counties.

While in agreement with the intent of the bill, your Committee has amended the dollar amount exemptions of subsection (a) to \$40,000 and \$35,000, respectively, to reflect both the policy that greater protection should be provided in terms of structural integrity for commercial structures, and the increased cost of construction.

Your Committee has also amended subsection (c) to require the recording at the Bureau of Conveyances of new structures only, which are exempt by subsection (b), based on the belief that an inadvertent failure to record a particular piece of work done to an existing structure, such as a minor improvement, may result in major consequences for the owner with regard to his recorded title. However, the original intent of the subsection, to provide subsequent buyers of exempted buildings the information that the building plans were not approved by an architect or engineer, is preserved.

Your Committee has also made technical, non-substantive changes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 531, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 531, S.D. 1, C.D. 1.

Senators Cobb, Carpenter, Ushijima and Yee
Managers on the part of the Senate

Representatives Blair, Aki, Baker, Honda, Shito and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 33 on H.B. No. 1459

The purpose of this bill is to provide notification to registered and legal owners of towed vehicles and vehicles left for repair of the location of their vehicles and to prevent the accumulation and assessment of excessive storage fees by towing companies and repair businesses.

Your Committee finds from the testimony presented that towing companies and repair businesses have been able to accumulate and assess large storage fees by not notifying the vehicle owners of the location of their vehicles. Your Committee is in accord with the intent of this bill to prevent this practice by requiring notification to be made within a specified time period. Failure of the owner to act after receiving notice will result in fees being accumulated as usual.

While in agreement with the intent of this bill, your Committee has amended the time requirements for owner notification. In order to provide uniformity and simplicity, your Committee has reorganized the bill and changed the maximum time periods allowed prior to notification to five days for registered owners and fifteen days for legal owners, for each of the situations denoted in the bill. Your Committee feels that these amendments will make it simpler to implement the provisions of the bill and will provide for greater compliance.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1459, 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. 1459, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Blair, Baker, Dods, Lee, Masutani, Jr. and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 34 on H.B. No. 1

The purpose of this bill is to provide appropriations for the fiscal biennium, 1979 to 1981.

In deliberating on this bill and other bills which affect state finances, your Committee was faced with a number of major policy issues, some of which are the result of the constitutional amendments approved by the voters in the 1978 general election, others which have emerged in the light of new conditions and events, and still others which are essentially old issues but which have been given inadequate attention by the State. It would be instructive, therefore, to summarize these major policy issues so that the appropriation and program decisions made in this bill can be placed in their proper perspective and so that the next and ensuing sessions of the legislature and the state administration will have some guidelines as to the policies that must be developed and the issues that must be resolved.

This Committee report is in two parts. Part I summarizes the major policy issues which affect state finances. Part II is an overview of the budget and summarizes some of the specific program and appropriation decisions which have been made.

I. Major Policy Issues

A New Approach to Appropriations

For some years now, the legislature has been concerned with the usurpation of its legislative powers, particularly its traditional, constitutional power of the purse. This usurpation of power has commonly taken the form of wholesale executive restrictions of legislative appropriations. In many instances, the administration has allotted funds for those appropriations which are requested through the executive budget but withheld funds for those appropriations which are made through legislative initiative. As a result, one of the basic tenets of representative government has been undermined: that it is the responsibility of the legislative branch to enact laws and make appropriations, and it is the responsibility of the executive branch to faithfully execute them.

For its part, the executive claims that the growing conflict over appropriations has come about only because the legislature has made appropriations which exceed the projected revenues of the State. But this is by no means clear since the executive can, throughout the budget execution process, adjust its revenue estimates to suit whatever funding actions it wishes to justify.

A 1978 constitutional amendment, which calls for the establishment of a council on revenues, provides a partial solution to the problem of executive-legislative conflict over appropriations. Beginning in fiscal year 198081, it will be the function of the council on revenues to make revenue estimates and to report them to the governor and the legislature. In the interim, the administration's revenue estimating committee will be responsible for making revenue estimates. It is constitutional intent that the revenue estimating committee, until replaced by the council on revenues, is to support at least three major actions by the governor and the legislature: (1) budget preparation by the governor; (2) appropriations by the legislature; and (3) budget execution by the governor.

It was the contention of the 1978 Constitutional Convention, and your Committee concurs, that revenue estimating is a function which should not be influenced by the politics of either the executive or legislative branches. Thus, the establishment of a council

on revenues is intended to provide the formal means by which both the executive and legislative branches will be served and advised impartially. It is your Committee's intent that the council on revenues be established with due speed so that it can make its first revenue estimates in time to guide the executive branch in developing its expenditure plans and making initial allotments for the 1980-81 fiscal year. It is also your Committee's intent that the administration's revenue estimating committee be responsible for all revenue estimates until such time as the council on revenues is established by law, that revenue estimates be updated prior to each ensuing quarterly allotment period and that the executive branch be guided by the estimates in all of its periodic allotment actions.

The general fund appropriations provided for in this bill, plus the appropriations your Committee is considering in all other bills, are within the revenue estimates which have been made by the executive. Therefore, if the revenue estimating committee finds at the outset of the next fiscal year and prior to each quarterly allotment period that the revenues anticipated will be equal to or exceed the estimates originally made by the executive, there can be no justification for any unilateral restriction of appropriations on the part of the governor.

Because revenue estimates are just that estimates which may or may not turn out to be completely accurate there is, of course, always the possibility that revenues may not rise to the level originally projected. Indeed, even as the revenue performance in the current fiscal year has been much stronger than originally anticipated, there is a great deal of uncertainty surrounding the international and national economies, including the emerging, ominous energy crisis. Any kind of a fuel crunch which has an effect on airline economics and discretionary income spending patterns could have not just a ripple effect but result in a tidal wave engulfment of the islands' tourism economy. Thus, in making appropriations, the legislature must take into account the possibility of a revenue shortfall.

It is true that the administration and the legislature must always take a longer view in formulating the budget. Both branches need to assess how expenditures in the biennial period will affect expenditures in the future. However, immediate spending decisions must be made against the revenue outlook for the immediate budgeting period and not against guesses about revenues beyond the budgeting period. The system that is incorporated in this bill provides safeguards against revenue shortfalls. Moreover, revenue shortfalls relative to appropriations levels should not be a problem in the future. Any conjectural argument for current restrictions because of possible future revenue shortfalls will be obviated by the constitutional amendment related to general fund appropriation limitations and the fact that it is inherent in the tax structure that revenues will outstrip economic growth.

Heretofore, the executive has claimed that legislative programs have not been funded because it was not possible to discern legislative priorities. For example, the director of finance, in discussing the restriction of appropriations before the 1978 Constitutional Convention's taxation and finance committee on August 9, posed the issue in this fashion:

"...We have people that sit through the committee hearings and try to understand what their priorities are, and we try to accommodate. And we're successful and not successful, but for the legislature to say we don't consider their feelings and what their priorities are, tell me what those priorities are. Give me a consensus of 76 people, and we will follow those priorities."

If executive discernment of legislative priorities has been so difficult, the legislature must proceed to restructure the general appropriations bill to clearly identify legislative priorities and to advance both executive and legislative accountability. Therefore, in perhaps the most significant development since statehood as to how the legislature has handled appropriations, your Committee has formulated special provisions and restructured appropriations to accomplish the following:

First, appropriations for operating programs have been reviewed, analyzed, and assigned into one of two categories. Part A includes those programs which have been found to be urgent and indispensable to the economic well-being, health, safety, and welfare of the State. Part B includes those programs which, while important, are less urgent.

Second, if the director of finance determines prior to each allotment period that probable revenues and available resources for each fiscal year will equal or exceed the total of all program appropriations in Part A of this Act for each fiscal year and other general fund appropriation acts then the executive is to fully fund the programs identified in

Part A, i.e., estimates made by departments or establishments of amounts from appropriations which are required to implement programs listed in Part A during an allotment period shall be fully allotted by the executive.

Third, the executive is also to fund the programs identified in Part B, but only if the director of finance determines prior to each allotment period that probable revenues and available resources for each fiscal year will equal or exceed the aggregate amount of program appropriations in Part A of this Act for that fiscal year and other general fund appropriation acts. The net result is that funds for program appropriations in Part B may be released, only if the executive first fully releases funds for those programs identified in Part A in accordance with the estimates submitted by the departments for program implementation during an allotment period.

Should there be a revenue shortfall, the amounts allotted or to be allotted must first be adjusted for those programs included in Part B before any adjustments may be made for those urgent programs identified in Part A. Such adjustments to allotments of appropriations in Part A, however, may only be made if the director of finance determines that probable revenues and available resources will be less than the total of all program appropriations in Part A of this Act for each fiscal year and for other general fund appropriation acts.

In effect and in a very large sense, the legislature is establishing a formal mechanism to declare its consensus priorities to the executive branch, and your Committee expects not less a response from the executive than that which was declared by the director of finance at the constitutional convention: "Give me a consensus...and we will follow those priorities."

General Fund Appropriations Limitation

One of the new requirements of the 1978 State Constitution is the establishment of a general fund appropriations limitation. No specific limitation is expressed in the Constitution itself. Rather, the Constitution requires the legislature to establish the limitation. Specifically, the legislature is required to establish a general fund appropriations ceiling which will limit the rate of growth of general fund appropriations to the estimated rate of growth of the State's economy. Therefore, it is ultimately the legislature's responsibility to determine what type of measure would reflect the rate of growth of the economy.

Because the economic measure selected will have far reaching effects on budgeting and appropriation policies for years to come, the issue has received your Committee's careful review. Some have suggested that general fund appropriations be limited by the rate of growth of total state personal income. Some have suggested that gross state product be used as the economic measure. Others have suggested that the State devise its own econometric model to measure growth. From all accounts, it appears to your Committee that the growth of total state personal income, averaged over the most recent three years for which data is available, is the best measure at this time, not only because it is a reasonable measure of the State's economy but because it is available and verifiable from an independent source, the federal government.

It is your Committee's expectation that a general fund appropriations limitation will be formally enacted by law for it to apply to all phases of the very next executive budget and appropriations cycle. It should be noted that the general fund limitation applies not only to appropriations made by the legislature but to the budget and financial plan submitted by the governor. However, the constitutional amendment was ratified at a time when the legislature was not in session, and the result is that there was no means by which the executive budget submitted to this session of the legislature could have been constrained by any legislatively imposed limitation.

In the meanwhile, your Committee believes that there should be immediate compliance with the spirit of the Constitution and that some economic measure should be used to establish a ceiling for general fund appropriations made in this session of the legislature. In the expectation that total state personal income will be the measure which will ultimately be enacted into statute, your Committee believes that particular index could well serve as the interim measure also. Therefore, averaged over the last three years for which data is available, the growth of total state personal income is calculated to be 9.4 percent for fiscal year 1979-80 and 9.0 percent for fiscal year 1980-81. These percentages will serve as the limit under which general fund appropriations in this bill, and all other bills providing for general fund appropriations, will be controlled in this session of the legislature.

Your Committee is aware that there is potentially a large loophole in the constitutional spending limitation. Because the Constitution applies the limitation only to general

fund appropriations, there is the possibility that revenues could be earmarked for additional special funds and escape the limitation. However, your Committee is determined that the spending limitation not be circumvented and that, if any special funds are created in the future, they must be for a legitimate purpose and not for the purpose of undermining a policy approved by the people.

Debt Limitation

A change which has had an immediate impact on how your Committee has proceeded with capital improvement and appropriation decisions is the constitutional change which was made to the State's legal debt limit. Previously, the debt limit was based on a limitation on the amount of general obligation bonds which the legislature could authorize. It was based on a formula which limited the total amount of authorized bonds to a multiple of 3.5 times the average of the general fund revenues for the three preceding fiscal years. In terms of a dollar ceiling, this meant a legal debt limit of some \$2.3 billion when the legislature met last session.

Instead of a limitation on total authorizations, the new debt limit places a limitation on annual debt service the amount required to pay principal and interest for general obligation bonds. There is a specific limitation which will govern the maximum amount for debt service up to June 30, 1982. There is another, lower limitation which will govern debt service after June 30, 1982. Until June 30, 1982, debt service in the current or any future year, calculated at the time the bonds are issued, cannot exceed 20 percent of the average of general fund revenues in the three preceding fiscal years. After June 30, 1982, the debt service limitation drops to 18.5 percent and will remain at that lower level.

In addition to the new debt service limitations, there are two other major considerations which affect debt policy. One consideration is the amount of bonds which the State can issue without adverse effects on either the marketability of the bonds or on the State's credit rating. The state administration has informed your Committee that the amount of bonds which the State can issue and plans to issue is \$150 million annually, an amount which is expected to result in aggregate debt service costs which will be under the legal debt limit both before and after June 30, 1982.

The second major consideration is a constitutional requirement which is in addition to the basic limitation on the debt service of all bonds issued. While the new debt limit does not place a direct limitation on the amount of bonds which can be authorized, the legislature will be required after July 1, 1980 to include in every law authorizing the issuance of bonds a declaration of findings. The declaration must find that the debt service estimated for the bonds authorized in that law, plus the debt service estimated for all bonds which have been previously authorized but are still unissued, plus the debt service calculated for all outstanding bonds, will not cause the constitutional debt limit to be exceeded at the time of issuance.

This means, in effect, that while the legislature is not restricted in the amount of bonds which it can legally authorize in this session or in the 1980 session, it will be faced with the problem of controlling authorizations in the 1981 legislative session. The policy issue that this additional provision raises is whether the legislature should begin controlling its authorizations now so that some kind of margin is available in the 1981 legislative session to make appropriations necessary to continue the capital improvements program. Your Committee believes that fiscal responsibility and a rational and realistic capital improvements program require that controls should immediately be exercised.

With respect to the capital improvements program embodied in the executive budget for the next biennium, it is apparent that the schedule for developing the capital budget was such that agencies did not fully take into account the constraining constitutional amendments ratified by the people in November. Thus, it appears to be a budget intended to add more projects on the books without considering that implementation emphasis must be given to prior appropriations because of the imminence of constitutional lapsing. The projects requested in the executive budget cannot be presumed to rank higher in priority than prior authorizations and, in actuality, they are not in the same state of implementation readiness as are some of the older projects.

With all of the foregoing considerations, your Committee recommends that legislative policy on appropriations for capital improvements should proceed as follows: First, it should appropriate in this bill capital improvement funds for only the first year of the next biennium. This is because there is great uncertainty of the status of previous capital improvement appropriations which have not yet been expended or encumbered. Some of these appropriations will be cancelled on June 30, 1980, an action required

by the Constitution for all unencumbered appropriations. Other appropriations will have been expended or encumbered. However, of this backlog of some \$1 billion in prior appropriations, the administration has provided no information as to how much will be expended and encumbered by June 30, 1980 and how much is expected to be lapsed. It is likely that some unencumbered appropriations will have to be reauthorized in the 1980 session to prevent their cancellation on June 30, 1980. All this must be taken into account in making capital improvement appropriations for the biennium, but the information is not available. The prudent course, then, is to make only those appropriations which are immediately required for fiscal year 1979-80 and to defer to the 1980 session the decision as to which new additional appropriations are required along with which prior appropriations need to be reauthorized.

Second, in making new capital improvement appropriations requiring general obligation bond financing, the legislature should limit its aggregate appropriations to below the level requested in the executive budget.

Third, a limitation must be placed on the amount of appropriations which the administration can encumber as of June 30, 1980, in order to ensure that a margin will be available in the 1981 session for additional appropriations necessary for continuity of the capital improvements program. This is to ensure that executive agencies do not engage in imprudent, accelerated obligation of funds merely to escape the automatic constitutional lapsing on June 30, 1980. An encumbrance ceiling equal to the average year-end encumbrances for the past four years appears to be a reasonable ceiling, and your Committee has provided for such a ceiling in a special provision.

The three elements identified above have been incorporated in this bill and should provide the controls necessary to begin redeveloping the capital improvements budgeting, appropriations, and implementation process along the lines intended by the Constitution.

However, in order for the legislature to develop its debt policy beyond the policy incorporated in this bill, it needs to have information by the 1980 session which only the executive agencies can provide. Therefore, the director of finance is directed to coordinate the preparation of a report to be submitted to the 1980 session and which will include the following information: (1) As to appropriations made in prior legislative acts for which direct general obligation bonds are the source of financing and which are unencumbered or unexpended as of July 1, 1979, (a) the amount of such appropriations; (b) the amount estimated to be expended by June 30, 1980; (c) the amount estimated to be encumbered as of June 30, 1980; (d) the amount estimated to be lapsed on June 30, 1980; (e) the aggregate amount which will be requested to be reauthorized by the 1980 legislative session and a listing of individual projects and specific appropriations supporting that amount; (2) As to appropriations made by the 1979 session of the legislature for which direct general obligation bonds are the source of funding, (a) the amount estimated to be expended by June 30, 1980; (b) the amount established to be encumbered as of June 30, 1980; and (c) the amount estimated to be unencumbered and unexpended as of June 30, 1980.

With the foregoing information and together with the requests for new appropriations for fiscal year 1980-81, the legislature will be in a better position to determine the level and kinds of capital improvement decisions to be made in the 1980 legislative session and whether it can safely do so without jeopardizing authorizations which may be required in the 1981 session.

It is necessary in this session, and it will be necessary in the sessions ahead, to move cautiously in the authorization of general obligation bond financing and to conserve general obligation credit, not only because of the effect on the legal debt limit but because of the administration's \$150 million limitation on annual issuance. Your Committee has taken the position that, where self-sustaining enterprises are in sound financial condition and have a proven record of being able to market revenue bonds, such bonds should be authorized and issued. For this reason, with respect to the state airports system, where the administration has proposed that general obligation reimbursable bonds be used to finance certain projects, your Committee has changed the source of funding to revenue bond financing.

As a matter for future action, those enterprises which are not self-sustaining but which should be are expected to be reviewed by the director of finance and the responsible agency to determine what changes in the financial structure of the enterprise will need to be made in order to qualify for revenue bond financing.

Other Constitutional Considerations

Standards for grants to private organizations. The legislature has been aware of the growing number of requests for public financial support of the programs conducted

by private organizations. Many of these programs are worthwhile, but there have been no standards by which these programs can be assessed. In response to this problem which was presented to the 1978 constitutional convention by legislative leaders, the Constitution now reads: "No grant of public money or property shall be made except pursuant to standards provided by law."

The required standards have been established in a proviso in this bill. Each appropriation intended for a private organization to carry out a program, which is finally agreed to by both houses, will have been reviewed pursuant to those standards. It is your Committee's belief that the standards included in the bill will adequately serve as transitional standards until the matter can be studied by an appropriate interim committee and more definitive standards are formulated and enacted to bring all aspects of the budgeting, appropriations, and budget implementation process under the controls required by the Constitution.

Transfer of mandated programs to the counties. The Constitution now provides that, if any new program or increase in the level of service under an existing program shall be mandated to any of the political subdivisions by the legislature, it shall provide that the State share in the cost. Your Committee does not find that any legislation needs to be provided for this particular requirement at this time, although the implications of the amendment need to be analyzed against specific situations.

Statewide Accounting System

The problem of a statewide accounting system is as old as statehood and, although it has been studied and restudied at least since 1963, its development has been imperceptible. Once again, a state administration has indicated that it wishes to proceed with developing a statewide accounting system and, while your Committee agrees that such a system is badly needed and long overdue, it is determined that the latest effort, for which the administration has requested close to \$1 million over the next two years, will not go by the wayside as did previous ill-fated, aborted projects.

With the establishment of state government following the Reorganization Act of 1959, it was evident that the accounting system inherited from territorial days needed a total overhaul. Duplicate records were being kept in the individual agencies as well as in the department of accounting and general services, even though the latter had been established to serve as the central accounting agency for the State. Moreover, the system was incapable of producing timely financial information necessary for the efficient management of the agencies and the State. This condition prompted the first of several consultant studies.

In 1963, the firm of Cresap, McCormick and Padgett recommended the establishment of a uniform accounting system and a central accounting service which would maintain and produce the accounting reports for all departments and agencies in sufficient detail so that duplicate accounting systems at the departmental levels would be unnecessary. The central accounting agency would also interpret, analyze, and report financial status in detail for all departments of the state government.

The recommendations were soundly conceived but nothing happened. Development of a new accounting system soon got bogged down in an internecine struggle between the department of accounting and general services and the then developing statewide information system (SWIS) as to which agency had primary jurisdiction over designing the new system. A 1969 audit found the accounting system in pretty much the same state as the Cresap study had found it.

In the early 1970's, the administration commissioned another study to be done by IBM Corporation. However, this project never got much beyond the stage of surveying the accounting and financial information needs of the various agencies. In the meanwhile, it became apparent that conflict continued between the systems accounting division of DAGS and the EDP division of B&F, the successor agency to SWIS. There the matter stood until last year when still another study was commissioned, this time by the CPA firm of Peat, Marwick, Mitchell & Company.

The firm has completed a systems requirements analysis, and the system design, development, and implementation phases are to follow. Generally, it can be said that the development of the statewide accounting system is now at the comparable stage following the IBM's information needs survey in the early 1970's. The next phase, system design, is where interagency conflict previously emerged, and it is less than certain, given the experience of the previous 16 years, that whatever system is designed will be agreed to by the principal agencies involved and be accepted for implementation.

The investment that the State will be making and the urgency for the project to be carried out through fruition require that extraordinary project policy direction be provided and project management controls be exercised. Therefore, your Committee has included a special provision that, in addition to whatever technical group is assigned to work on the project, a high-level steering committee, composed of officials at the cabinet or sub-cabinet level, be appointed by the governor. The steering committee is to monitor all phases of the project through implementation, provide policy direction, and settle any disputes which might arise.

Your Committee is recommending that appropriations be included for the development of the statewide accounting system but only with the understanding that the project will be under close project direction and project controls. The steering committee is to submit a report to the 1980 session of the legislature on the status of the project, the work required to complete its remaining phases, and an updated timetable for the project.

Consultant Services

The experience with the development of the statewide accounting system illustrates still another problem: the use of consultant services by state agencies. The issue of improving the system for the contracting of consultants for architectural and engineering services has received attention in this session of the legislature. The issue of the use of consultants for special studies, systems analysis, master plans, and the like is of a somewhat different order, but it deserves attention no less.

It has often happened that consultant studies go nowhere or that they badly miss the mark. When these situations occur, the primary responsibility rests with the government agency contracting for the study. Often, the agency itself is unclear as to what the study should be all about.

The starting point for the use of a consultant on a study should be the preparation of detailed and explicit project specifications. These specifications should include: the specific objectives of the project; the nature and scope of the project; the tasks to be performed; the specific concerns to be investigated; the facts to be gathered and the questions to be answered; the desired approach in performing the work; the practical, legal, and political limitations or constraints, if any, on the work to be undertaken; the form in which a report on the project is to be submitted; and the form and content of the proposal to be submitted in response to the specifications. Specifications for studies should also include the dates of proposal submission, contract award, project commencement and termination; procedures for submission of work papers and progress reports; and requirements for a preliminary draft and final report.

Proposals in response to the specifications should be solicited from as many consultants as possible. The specifications should describe what the proposal should contain, including the consultant's description of the firm's qualifications; the approach, method, and procedure the consultant intends to take and the standards which will be used; the resources the consultant intends to commit, including name and qualification, scope of work, and the amount of time to be devoted by each member of the consultant's team; the estimate of the time to be required to complete the work; and the cost of the work by appropriate cost elements (e.g., salaries, rental of equipment, travel, printing).

Proposals received by the agency should be evaluated against specific criteria derived from such general standards as the following: the degree to which each proposal complies with the specifications; the qualification and competency of each prospective consultant as shown by its organization, its staff capabilities, its past experience, and its reputation; the competencies that each prospective consultant intends to commit to the work; the approach, methods, and procedures that each prospective consultant intends to follow; the depth to which each prospective consultant proposes to conduct the various phases of the study; the time within which the study will be completed; and the costs and anticipated benefits of each proposal. From the foregoing general standards, more specific criteria should be developed for each proposed study, and various elements of the proposal should be measured quantitatively against those criteria. The proposals should then be ranked before a final selection is made.

Consultant contracts should contain the provisions of the specifications and accepted proposal. Furthermore, the contract should contain provisions to safeguard against cost over-runs, such as specifying when periodic payments are to be made for the work performed or as costs are incurred, a ceiling as to the total amount to be paid, and the withholding of final payment until a report is submitted which is acceptable to the agency.

Finally, when consultant reports are published, executive agencies should ensure that the cost of the study be identified on the title page or on some other prominent page. This is to heighten public and legislative awareness of the cost of studies and to inject in agencies a cost consciousness concern which now appears to be lacking.

Your Committee believes that some uniform system for the selection and use of consultants on studies, along the lines suggested here, should be developed and enforced among the agencies. Therefore, your Committee recommends to the governor that he direct that an appropriate system for consultant studies be developed and implemented. If there is no action to establish a system administratively, a system will be mandated by appropriate legislation.

The Budgeting System

It is now nearly a decade since the Executive Budget Act of 1970 was enacted and, with it, the development and installation of planning-programming-budgeting. The fact that the budget documents, which should be the most important recurring documents of the state government, have been little used in recent years by the legislature and have little impact on appropriation decisions should be of some concern to the executive branch.

There are several reasons, some of which have been pointed out previously by the legislature, why the budget documents as submitted have sunk to such a low order of importance.

First, program cost data is sometimes incorrect and often suspect. Moreover, there is no way by which legislative committees can test the reasonableness of the cost data without asking for all the supporting cost details.

Second, program effectiveness measures are often irrelevant and, when relevant, their data appears to be artificial and inflated. Thus, what was to have been one of the key elements of the budgeting system the ability to determine whether a program was achieving its intended objectives is rendered meaningless.

Third, the program plans from one biennial budget to the next are often virtually carbon copies. Seldom are program issues discussed in any meaningful way. Summaries of analysis, when these are provided, often do not relate to actual analysis.

Fourth, even though there have been a number of new programs and significant changes to programs proposed over the years, there has been little evidence that program analysis has been conducted.

The department of budget and finance, as the agency responsible for preparing the executive budget, has made progress in developing its computer-based budget format, but it should be aware that other improvements must be made if the budget documents are not to fall into complete disuse.

Your Committee recommends to the director of finance the following:

- (1) With respect to personnel service costs, there should be some supporting data in the program plan concerning such aspects as the titles, salary range, and number of positions in the program and their costs.
- (2) Effectiveness measures and data prepared by the agencies should be reviewed for relevance and accuracy.
- (3) Higher standards should be applied to the preparation of program plans.
- (4) The agencies should be required to do program analysis before any resources are proposed for a new program or to increase the size of an ongoing program.

Employees' Retirement System

By its sheer size and importance to so many people, the State employees' retirement system, with over 50,000 active members and 13,000 retirees and with \$1 billion in investments, should be periodically reviewed from a policy perspective.

A number of policy issues have emerged, which your Committee believes should be further examined by the board of trustees of the retirement system. These issues include the following:

- (1) Whether the system should be redesigned around the principle that retirement benefits from the state retirement system added to the benefits of the social security system should be not more than 100 percent of the employee's final take-home pay.
- (2) Whether the current rate of assumed earnings of the system should be raised to some higher rate.
- (3) Whether the benefits for (a) ordinary disability and (b) service connected disability are adequate, inadequate, or more than adequate, taking into account other compensation systems.
- (4) Whether state and employee contributions to the system should be reduced in view of rising and uncontrollable social security contributions.

Your Committee requests that the Board of Trustees submit a report to the 1980 session on the foregoing issues and other issues which the Board believes should be brought to the attention of the legislature. At the same time, the issues will be reviewed by a joint legislative committee during the next interim period.

Legislative Oversight of Executive Agencies

A basic function of state legislatures is to oversee the executive branch of government. The legislature has a responsibility to review and evaluate state government programs to see how they are being implemented and to assure that public resources are being conserved through efficient government operations.

Among the major ways that the Hawaii State Legislature has exercised oversight over the activities of the executive branch has been through: (1) review of executive programs and agencies through the appropriations process; (2) review of specific concerns by standing and interim committees; and (3) financial, management, and program audits by the legislative auditor.

Recent responses by agencies to the audits conducted by the auditor require some comment. It is the practice of the auditor to transmit a copy of the preliminary report of the audit to the agencies affected by the examination. It is also the practice of the auditor to invite the agencies to comment on the recommendations made and to publish the responses of the agencies in their entirety as part of the audit report. In this way, the legislature as well as the public are informed as to which recommendations are agreed to by the agencies and which are not.

Such a written record as to how the agencies view the specific recommendations greatly facilitates identifying areas of agreement and areas of dispute. However, executive agencies have been responding in a very cursory way to audit recommendations as, for example, in the school bus transportation audit where, after seven weeks of review, three agency heads submitted a one-page response without commenting on the specific recommendations.

The audit of the Hawaii Foundation for History and the Humanities is another example where an executive agency has not seriously responded to the legislature's concern for more efficiency in the management and operation of state government.

The audit, completed in March 1976, generally found that the foundation had not effectively implemented the programs over which it had statutory responsibility and that progress has been extremely slow in meeting legislative expectations in virtually all areas. In reviewing the 1976 audit's findings and recommendations and as a result of public hearings held in 1977 on this matter, the legislature found that: a depository of funds and gifts to the State had not been established; a plan for a state trust for historic preservation in cooperation with the State Foundation on Culture and Arts has not been developed; a comprehensive museum and museum activities support program has seen minimal efforts and the centralized repository and information resource center and clearinghouse has not been fully realized.

Given the non-responsiveness and inattention to these matters, your Committee has recommended transferring some of the program appropriations originally scheduled for the Hawaii Foundation for History and the Humanities to other agencies that undertake similar programs.

In the future, agencies which are audited and have the opportunity to comment on the audit recommendations will be expected to provide specific responses on their agreements and disagreements, and where they disagree, an explanation for the disagreement.

And where the agencies do not take the audit recommendations seriously, the legislature will take stronger steps to ensure that its concern for more efficient government operations is not ignored.

II. Budget Overview

The general fund appropriations provided for in this bill, as well as appropriations for which general obligation bonds are the source of financing, are under executive budget levels. Your Committee's general approach to the making of program appropriations has been to review the recommendations of the subject matter committees, to assess the accuracy of the cost estimates for the various programs, to consider alternative means of funding certain programs, and, in some cases, to hold appropriations to a lower level than that requested by the executive. In addition, where your Committee is not satisfied that program direction is clear and where uncertainties exist, funding has been provided only for the first year of the fiscal biennium with the expectation that the responsible executive agencies will provide a firmer justification for the content, design, and direction of the programs or risk their curtailment. The programs for which only one-year funding has been provided include the appropriations for intake service centers. Another area of concern is the Hawaii Community Development Authority's role in the redevelopment of Kakaako because of its potential impact on limited state financial resources.

Other specific decisions made by your Committee include the following:

Hawaii Visitors Bureau. While recognizing the importance of tourism to the state economy, your Committee believes that the time is overdue for a return to a 50-50 parity of public support with the private sector. Even as the travel industry economy has expanded exponentially since statehood, state appropriations have accounted for an inordinately high burden in support of the Hawaii Visitors Bureau while private subscriptions have accounted for a disproportionately lower level of support.

In 1959, the year of statehood, state appropriations amounted to \$441,628 or 49 percent of the HVB budget, while private subscriptions amounted to \$459,999 (51 percent). In the current fiscal year, \$2,167,624 is budgeted from general fund appropriations, an increase of nearly five times what it was in 1959, while private subscriptions amount to \$750,000, an increase of only 1.63 times. Tourism is no longer a fledgling industry incapable of carrying its own weight. Therefore, your Committee is providing for a more equitable burden to be shared by the public and private sectors beginning in fiscal year 198081.

Product promotion. The State's program for product promotion is intended to assist associations of producers or distributors of Hawaiian products to introduce their products to consumers. Your Committee finds that the program has been oriented for many years to the support of established and viable industries which are less in need of support than newer industries striving for an expanded market. Therefore, your Committee expects the department of planning and economic development to redirect the program towards the support of newer industries and enterprises.

International Trade Center. The governor had requested an appropriation of some \$8.5 million for the first increment development of an international trade center within the Aloha Tower complex. Your Committee is not satisfied that proper analysis of this project has been conducted. The program objectives are unclear, and there has been a lack of consideration of alternative means of development, including development by the private sector. The entire project, which is destined to cost many times the cost of the initial increment, is fraught with uncertainties. Therefore, prudence dictates that the bulk of the appropriations for this project be deferred, and only design funds be provided at this time. However, some basic answers are still needed from the administration before design funds can be allotted and before further commitments are made. Therefore, the Legislative Auditor is directed to examine the administration's analysis and need contentions for the International Trade Center and to report its findings and recommendations to the legislature twenty (20) days prior to the convening of the 1980 legislative session.

University of Hawaii. It is evident to your Committee that the University of Hawaii lacks the kinds of management and operational control systems necessary for the efficient conduct of any large organization. The disparate and, in some cases, inordinately high administrative salaries identified by your Committee is symptomatic of a larger problem: that the University apparently lacks a sound personnel classification and compensation plan, and little has been done about it over the years. In order to provide the University with direction it must move to improve its management systems. Your Committee is requesting that the Legislative Auditor commence a management audit

of the University, the first phase of which is to be an audit of personnel management and administration.

School Counselors. Your Committee decided to provide additional counselor positions so that each school will have at least one counselor or half-time counselor position. However, it does not believe that counselor positions should be increased to the extent requested by the department. The DOE should instead develop a program whereby teachers can be first-line counselors, a proposal made years ago in DOE's master plan but never executed. Your Committee expects such a program to be developed and that it be done in consultation with the collective bargaining unit.

Other changes involve changes in programming, such as deferring the appropriations for the Barbers Point deep draft harbor. In addition, some sources of financing have been changed, as in the case of the State Capitol, where major repairs to the roof and reflecting pool were intended to be funded through the general fund but are determined by your Committee to be more appropriately funded through general obligation bond financing. Your Committee is familiar with the issue of cash vs. bond financing but believes that extensive repair work costing in excess of \$1 million that would enhance the life of a capital facility ought to be funded by the bond fund.

The priorities of the governor as presented in the executive budget have been carefully reviewed and your Committee agrees that certain appropriations should be made to those areas of concern and emphasis expressed by the governor. These appropriations include the following:

	Fiscal Year	
	1979-80	1980-81
Improve the quality of lower education by upgrading the skills of teachers; providing additional teachers and assistants for special education and bilingual students; providing speech and hearing therapists for all eligible students; testing a teacher evaluation system; and increasing the staff to diagnose handicapping conditions.	\$ 3,463,336	\$ 4,664,782
Improve the environment of schools by providing staff for safety and security purposes.	\$ 710,256	\$ 834,000
Modernize existing hospital facilities, and improve medical services by increasing the nursing staff and other related activities.	\$ 1,475,289	\$ 1,737,401
Improve the mental health program by increasing the staff at the Community Health Centers on the neighbor islands and for the diagnosis, treatment, and consultation of children with emotional problems.	\$ 1,900,000	\$ 2,000,000
Additional occupational and physical therapists to assist special education students through the sensory deficiency program.	\$ 350,897	\$ 337,290
Emergency medical services for Kauai, Hawaii, Maui and Oahu.	\$ 5,143,014	\$ 5,696,895
Funds to the DOH for continuing the EMS instructional training and re-training programs throughout the State.	\$ 302,769	

	Fiscal Year	
	1979-80	1980-81
Provide a new Hilo hospital.	\$15,000,000	
Agriculture, home loans and residential subdivisions for the Hawaiians.	\$ 7,680,000	
Acquisition of park lands at Makena La Perouse, Maui, and Kaena Point, Oahu.	\$ 1,450,000	
Development of agricultural parks on Hawaii at Lalamilo, Panaewa, and Ke-ahole, and on Oahu at Kahuku, Waimanalo, and Waianae and developing better production forecasting for agricultural products.	\$ 4,100,000	
Kakaako District development.	\$ 2,062,143	\$ 204,324
Alleviation of traffic congestion on Oahu by improving Puuloa Road, Liliha Street, Kalaniana'ole Highway, and Ft. Weaver Road.	\$ 1,973,000	
Implementation of the state general plan.	\$ 353,000	\$ 307,000
Fully fund the Medicaid Fraud Unit.	\$ 74,904	75,644
Additional correctional personnel for Oahu Community Correctional Center.	\$ 929,099	\$ 1,041,365

In addition to those executive priorities of the governor for which appropriations have been provided, your Committee has determined that there are a number of legislative priorities for which appropriations should also be made. These include the following:

Additional student textbooks.	\$ 252,259	\$ 278,429
Implementation of the Secondary English Program in grades 9 to 10.	\$ 217,407	\$ 221,860
Funds for individual schools, based on a formula of \$2,000 per school and \$3.50 per student, to be expended for the special needs of each school.	\$ 1,035,918	\$ 1,031,022
School bus aides to assist special education students.	\$ 33,809	\$ 82,717
Tuition waivers for those summer school students who are economically disadvantaged.	\$ 115,200	\$ 115,661

	Fiscal Year	
	1979-80	1980-81
Half-time student activities coordinators for each high school.	\$ 217,227	\$ 256,158
Additional funds to strengthen after-hours security and student safety for the UH system.	\$ 134,872	\$ 134,872
Continuation for another year of the State Comprehensive Employment and Training Program.	\$ 3,700,000	
Additional funds for the agricultural loan program.	\$ 775,000	
Loan funds for sugar growers and processors.	\$ 3,200,000	
Marketing program to promote Hawaii as a site for regional headquarters for multinational corporations.	\$ 100,000	
Fund a prawn marketing program.	\$ 130,000	
Fully fund research, demonstration and capital improvement projects on natural energy.	\$ 5,235,520	\$ 245,825

There are a number of uncertainties that might have some impact on the budget. In the area of education, while your Committee believes that special education is being funded at the appropriate level, it is uncertain how the federal government might view the matter in the context of the requirements of Public Law 94-142. In addition, recent airline strikes are predicted to have severe impact on the tourist industry and shortfalls in general fund tax revenues are being predicted. These conditions have not yet been fully validated or clarified.

In summary, in spite of several uncertainties, your Committee believes that the budget recommended by this bill as well as the appropriations recommended in other separate bills are within the revenue resources of the State as currently estimated and are within the fiscal capacity of the State to undertake over the next fiscal biennium.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1, 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. 1, H.D. 1, S.D. 1, C.D. 1.

Senators Cayetano, Kawasaki, Abercrombie, Carpenter, Chong, Hara, Toyofuku, Yamasaki, Yim, Young, Ajifu, Anderson, Soares and Yee
Managers on the part of the Senate

Representatives Suwa, Morioka, Crozier, de Heer, Fukunaga, Hashimoto, Holt, Ige, Inaba, Kobayashi, Kunimura, Sakamoto, Takitani, Lacy, Jr., Narvaes and Sutton
Managers on the part of the House

Conf. Com. Rep. No. 35 on H.B. No. 2

The purpose of this bill is to appropriate funds to the Judiciary for the fiscal biennium July 1, 1979 to June 30, 1981.

The bill represents the proposed budget of the Judiciary adjusted for salary turnover savings, deletion of non-essential positions, and other minor adjustments. Some of the more significant items are centered around the recent amendments to the State Constitution which

mandated the establishment of an Intermediate Appellate Court; Judicial Selection Commission; Grand Jury Counsels; and Judicial Discipline Commission. Another significant item is the funding of the Criminal Justice Information System Data Center.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2, 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. 2, H.D. 1, S.D. 2, C.D. 1.

Senators Cayetano, Kawasaki, Abercrombie, Chong, O'Connor, Anderson and
Soares
Managers on the part of the Senate

Representatives Suwa, Morioka, Crozier, de Heer, Fukunaga, Hashimoto, Holt,
Ige, Inaba, Kobayashi, Kunimura, Sakamoto, Takitani, Lacy, Jr., Narvaes
and Sutton
Managers on the part of the House

Conf. Com. Rep. No. 36 on H.B. No. 48

The purpose of this bill is to extend the State Comprehensive Employment and Training (SCET) and State Loans for Employment components of the State Program for the Unemployed (SPU).

To avoid any forced lay-offs, your committee upon further consideration amended H.B. No. 48, H.D. 2, S.D. 2 by increasing the appropriation for SCET by \$350,000 to bring the total appropriation for SCET to \$3,550,000. It is the intent of your committee that these funds will be used to finance existing program projects. However, due to budgeting restraints, funding for Parts III and IV have been deleted.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 48, 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. 48, H.D. 2, S.D. 2, C.D. 1.

Senators Cayetano, Abercrombie, Hara, Toyofuku, Young, Ajifu and Anderson
Managers on the part of the Senate

Representatives Takamine, de Heer, Kiyabu, Machida and Marumoto
Managers on the part of the House

Conf. Com. Rep. No. 37 on H.B. No. 1686

The purpose of this bill is to authorize the Hawaii Housing Authority (HHA) to raise funds from private investors through the sale of tax-exempt revenue bonds, and to make these funds available at affordable interest rates through mortgage lenders to persons and families of lower and moderate income to enable them to purchase a new or existing home. The funds will be allocated by the HHA for use in four housing programs as follows:

1. The making of loans to mortgage lenders who will in turn make loans to persons of lower and moderate income (eligible loans);
2. The purchase of existing loans or mortgages from mortgage lenders who will then make eligible loans;
3. The making of advance commitments to purchase eligible loans from mortgage lenders;
4. The funding of eligible loans to be made through mortgage lenders.

Similar programs are operating through over forty other State and municipal housing agencies across the nation. The State Constitution allows Hawaii to take advantage of the favorable federal tax treatment on the investment income of such revenue bond issuances. The market for such offerings is envisioned as being primarily comprised of out-of-state investors who have previously not participated in providing mortgage funding for residential development in Hawaii. Thus, this program effectively allows us to import new investment capital for housing at below market rates. Additionally, these bond issuances will not affect the State's power to issue general obligation bonds.

Your Committee finds that a major cause of the continuing housing problem in Hawaii is the lack of long term financing at affordable interest rates which hinders the purchase of residences particularly for first-time buyers, younger families, and persons and families of lower and moderate income.

Your Committee further finds that existing loan programs will not provide sufficient resources to meet the future demand for affordable financing of residential mortgage loans for persons and families of lower and moderate income, especially younger families.

Your Committee recognizes that one of the primary determinants of homeownership is the potential homeowner's ability to qualify for a mortgage loan based on the size of the monthly mortgage payment. Since the monthly mortgage payment is determined by the principal amount, the interest rate, and the length of the loan, it is important that these factors be addressed in offering home mortgage loans that are affordable to potential owner-occupant homeowners.

Your Committee has found that the "average" loan made by one of Hawaii's larger mortgage lenders in 1978 was approximately \$60,000. At the present market rate and term, the annual qualifying income would be approximately \$28,000. It has been estimated that loans made under this bill could be made at approximately two percentage points below the market rate. Thus, under this bill, a person or family making almost \$5,000 less per year would qualify for the same principal loan amount.

In legislative public hearings on this bill, virtually all the trade associations representing the major private lending institutions and the construction industry strongly emphasized their support of this measure and of the importance of providing affordable mortgage financing for Hawaii's residents.

The bill has been designed to provide for the implementation of these housing loan programs through local financial institutions, rather than to require the State government to model or muddle the private sector's activities. The representatives of the private lending community are fully cognizant of the importance of their role in assisting in the implementation of these loan programs, and have expressed their interest in actively participating in the formulation of the policies and procedures governing the programs. The bill provides a council comprised of representatives of the public and of the major trade associations of the financial institutions to assist in the implementation and operation of the housing loan programs.

This Act has been designated as the Housing Loan and Mortgage Act. Like the Federal National Mortgage Association (FNMA) and the Government National Mortgage Association (GNMA) which have fostered the appealing nicknames "Fannie Mae" and "Ginnie Mae", your Committee hopes that securities issued under this Act will be affectionately referred to as "Hula Mae" bonds.

Your Committee upon further consideration has made the following amendments to H.B. No. 1686, H.D. 2, S.D. 3:

1. Reworded the Legislative findings describing the need for the Hawaii Housing Authority to be granted comprehensive housing loan program powers. The language is designed to accurately describe the types of powers needed by the Hawaii Housing Authority to undertake the housing loan program provided in this bill.
2. Amended Section 3 by including the definition of "mortgage lender" in the general definition section of Part II, Housing Loan and Mortgage Program, rather than by including it in Section 356-2, Hawaii Revised Statutes.
3. Revised the adjusted household income of an eligible borrower under Section 356-206, from 150 per cent of the median income for households in the State as published by the Department of Planning and Economic Development, to 115 per cent of the median income for households as published by the United States Department of Health, Education and Welfare.

The figures published by HEW are determined annually based on data developed by the United States Bureau of Census and appear to be more current than the DPED figures. The HEW figures are also used for Title XX social service programs.

The use of the lower percentage rate and the HEW figures has the effect of lowering the adjusted household income requirements for an eligible borrower. Based on the most recent figures published by the DPED, the statewide median household income for families in Hawaii is approximately \$17,770. 150% of the DPED figure results in an adjusted household income of \$26,655. Using the HEW figure and 115 per cent, the result is \$24,976. Your Committee believes that the modification resulting in a lower adjusted household income requirement more adequately accomplishes the purpose of assisting persons of lower and moderate income in the purchase of a home. Since the purpose of this bill is to assist persons of lower and moderate income in the purchase of a home, this downward

modification of income is necessary to accomplish this goal.

4. Deleted provisions requiring mortgage lenders to allocate loans to eligible borrowers at various income levels and at different interest rates because of the difficulty in administering such a provision within the limits of the federal arbitrage requirements.

5. Amended Section 356-207(b) relating to the restrictions on the eligible loans which are to be established by the authority. The language provided that the "fair market value" of the property to be purchased shall not exceed 125% of the principal amount of the loan. The provisions cause problems when applied to the sale of "traditionally" sponsored government housing. The provision was intended to prohibit the purchase of a "luxury" type home; however, it did not take into account the use of government construction subsidies which reduces the purchase price of the home below the fair market value of the property. Because the purchase price is reduced, the principal loan amount needed to purchase the property is reduced. The result of multiplying the principal loan amount by 125% is an amount which will be well below the fair market value of the property. The loan may thus be disqualified because the fair market value of the property will exceed 125% of the principal loan amount.

Your Committee has amended the provision by limiting the amount of down payment on the purchase of the property that can be made on property securing an eligible loan to no more than 20% of the fair market value of the property. The amendment is intended to prohibit an individual from purchasing a very expensive home by depositing a large down payment and utilizing the eligible loan to finance the balance of the purchase price. Your Committee notes that purchase of luxury type homes by an eligible borrower is intended to also be prohibited by limitations in the bill on income and assets of borrowers, on loan qualification practices and on the eligible loan amount.

6. Amended Section 356-211 to remove from the enabling provisions of the housing loan and mortgage program the amount of the revenue bonds that may be authorized in this legislature. Your Committee believes that the amount of the bonds authorized should not be within the enabling provisions of the bill but should be in a separate section. Accordingly, your Committee has removed the amount of revenue bonds authorized from the permanent statutory provisions and established a new section in the bill entitled "Issuance of revenue bonds; amount authorized".

7. Amended the amount of the revenue bonds which the legislature is authorizing from \$75,000,000 to \$125,000,000. Based on a mortgage loan of \$60,000, the \$125,000,000 should provide at least 1,804 eligible homeowners with an eligible loan for a home.

8. Inserted the provisions in Section 356-281(b) and 356-282 into Section 356-242. These provisions generally pertained to the filing of a statement involving the collateral security with the Bureau of Conveyances and were accordingly placed in a single subsection in the bill.

9. Deleted Sections 356-271(b) pertaining to collateral security because this provision is not applicable to the eligible loan funding program.

10. Deleted Section 356-291. This section was intended to restrict the transfer of a housing unit which has been financed by an eligible loan made under this part. The restriction was imposed for a two year period with payments to the authority being required if the housing unit is transferred within the two year period.

Your Committee has been advised that the restriction on transfer is a provision unique to Hawaii and the revenue bond issue will be a hybrid in the bond market. Two general problems may result from the restrictions on transfer. The restriction may be deemed to be an unreasonable restraint on the free alienation of property and may also violate the Due Process Clause of the State and Federal Constitutions. In addition the required payment to the authority, if such a transfer takes place within two years of the purchase, may trigger the arbitrage provisions of the U.S. Internal Revenue Code. In the latter case, the tax exempt status of the revenue bonds may be impaired. In the case of the possible violation of the free alienation of property and the Constitution, the marketing of the bonds may be adversely affected. Your Committee has been advised generally that the more unusual a revenue bond issue program, the more difficult it is to market the bonds.

11. Added a new section 356-291, entitled "Arbitrage provisions" to expressly prohibit the authority from making or causing loans to be made from the proceeds of the revenue bond on terms or conditions which would make the revenue bond an arbitrage bond.

12. Revised the membership of the Advisory Council to six members, consisting of the Executive Director of the Hawaii Housing Authority, two members of the public, and one member each from the Hawaii League of Savings Associations, the Mortgage Bankers Association, and the Hawaii Bankers Association. The appointees shall serve for a two year term.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1686, H.D. 2, S.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1686, H.D. 2, S.D. 3, C.D. 1.

Senators Young, Carpenter, Cayetano, Hara, O'Connor and Anderson
Managers on the part of the Senate

Representatives Shito, Aki, Ige, Lee, Ushijima and Lacy, Jr.
Managers on the part of the House

Conf. Com. Rep. No. 38 on S.B. No. 1634

The purpose of this bill is to amend Chapter 328, part III, Hawaii Revised Statutes, by adding a new section defining the term "thawed food". The bill further deletes the exemption from the requirement of notification presently allowed to food products which are canned, pickled or preserved and to food products shipped outside of the State for sale which have been previously frozen and then thawed out. The bill exempts thawed foods processed by grinding, heating to alter the physical condition, or by dehydrating, and requires labels to be of a size easily seen under customary conditions of purchase.

Your Committee upon further consideration has made the following amendment to S.B. No. 1634, S.D. 2, H.D. 1:

(1) The word "throughout" has been added to the definition of thawed food. This addition exempts those foods, such as beef, which has been partially frozen to facilitate specialty cutting. Such a process is not for the preservation of the product, but merely to aid in the slicing process.

(2) Section 2 of this bill has been reworded to simplify the language without changing the intent of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1634, 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. 1634, S.D. 2, H.D. 1, C.D. 1.

Senators Carpenter, Cobb, Campbell and Yee
Managers on the part of the Senate

Representatives Blair, Aki, Baker, Honda, Uechi and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 39 on S.B. No. 1373

The purpose of this bill is to appropriate additional moneys to the department of education thereby allowing the department of education to balance its operating budget for fiscal year 1978-79.

The department of education reported that there are insufficient funds to pay for all the positions authorized and needed to provide basic services. They indicated that the salary shortage is due to (1) shortage in the amounts appropriated for pay raises, (2) special education enrollment exceeding their budgeted projection, and (3) difficulty of generating sufficient salary savings to cover the turnover savings deducted in advance. Their projected shortage is \$1.5 million.

Your Committee has amended the bill by increasing the nominal \$8 appropriated in House Draft 1 of the bill to the \$1.5 million projected by the department of education.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1373, 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. 1373, S.D. 1, H.D. 1, C.D. 1.

Senators Campbell, Cayetano and Ajifu
Managers on the part of the Senate

Representatives Lunasco, Suwa, Inaba, Morioka, Say and Marumoto
Managers on the part of the House

Conf. Com. Rep. No. 40 on S.B. No. 1703

The purpose of this bill is to specify procedures to be followed upon submission of proposed constitutional amendments or revisions to the public for voter ratification.

Of primary concern to your Committee in considering this bill was the importance of educating the public of the pros and cons of each amendment or revision prior to its submission at an election.

This bill, as amended, provides that each proposed constitutional amendment will be submitted to the voters in the form of a question embracing a single subject which will require a "yes" or "no" vote for ratification.

The manner of voter education has also been specified to require the Constitutional Convention to make available for public inspection the full text of any proposed amendment or revision at every public library, office of the county clerk, and the office of the chief election officer, as well as at every polling place on election day.

The Constitutional Convention shall also provide for a program of voter education to include, but not be limited to, an informational booklet prepared by the Legislative Reference Bureau of the pros and cons of each amendment and its known fiscal impact. At least thirty days prior to the submission of a proposed amendment or revision, each registered voter shall be provided such an informational booklet.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1703, 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. 1703, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Yamada, Dods, Honda, Larsen, Masutani, Jr. and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 41 on H.B. No. 451

The purpose of this bill is to close the legal loopholes that presently exist in the drug statutes by adding a definition for "dosage unit" in Sec. 712-1240 and also including in the definitions of a "practitioner" and "to distribute", the act of prescribing a controlled substance.

Your Committee finds that drugs such as LSD, cocaine and heroin are commonly sold in tablets or capsules that contain the average amount of the drug that is necessary for the user to obtain a "high". Although this finding applies in most instances, it is not true in all because drugs are also distributed and sold in various other forms that are not covered under the present drug laws. Because of this, law enforcement agents are faced with an almost impossible task of apprehending individuals dealing in the area of illegal drug distribution. Therefore, the broad term "dosage unit" was introduced to alleviate the problem encountered in the arrest and eventual prosecution of drug offenders.

However, after reviewing the definition of "dosage unit" as currently stated in this bill, your Committee feels that it does not completely rectify the aforementioned dilemma because the definition may be too specific, creating the possibility of yet another loophole being found in the law. Therefore, your Committee has amended this bill by further generalizing the definition of "dosage unit" to include any entity designed and intended for singular consumption or administration believing that this action will lessen the promotion of dangerous drugs within this State.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 451, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 451, S.D. 1, C.D. 1.

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

Representatives Yamada, Aki, Honda, Larsen, Shito and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 42 on H. B. No. 1216

The purpose of this bill is to clarify provisions relating to the scope of Article 9 of the Uniform Commercial Code, Chapter 490, Hawaii Revised Statutes, and the re-filing and re-recording requirements of Article 11 when the perfection of a security interest lapses by operation of law.

Under present law, deposit accounts are included under Article 9 by Act 155, Session Laws 1978, and the concurrent addition of new provisions, section 490:9-105(e), Hawaii Revised Statutes, defining "deposit account" and section 490:9-302(h) stating how a security interest in a deposit account is to be perfected.

Your Committee finds that the intent of the Legislature in 1978 was to include deposit accounts within the coverage of Article 9 for purposes of security interest perfection. Your Committee also feels that exclusion of deposit accounts from Article 9 in light of the above mentioned concurrent provisions would create an apparent contradiction and uncertainty in the status of security interests in such accounts.

Therefore, the bill has been amended by deleting Section 1, thereby including deposit accounts within the scope of Article 9, and eliminating any uncertainty. Corresponding technical changes have also been made.

Your Committee finds that Section 2 of H.B. No. 1216, H.D. 1, S.D. 1, would correct what appears to be a drafting error in Act 155, Session Laws of Hawaii 1978, relating to the re-filing requirements of Article 11. Your Committee is aware of the intent of Article 11 to provide transitions necessitated by the various amendments made to the Code by Act 155 for existing perfected interests. Your Committee is in agreement with the intent of this bill to correct those apparent inadvertent mistakes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1216, 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. 1216, H.D. 1, S.D. 1, C.D. 1.

Senators O'Connor, Takitani and Carroll
Managers on the part of the Senate

Representatives Blair, Garcia, Lee, Nakamura, Uechi and Ikeda
Managers on the part of the House

Representative Garcia did not sign the report.

Conf. Com. Rep. No. 43 on H.B. No. 1386

The purpose of this bill is to effectuate comprehensive improvement of Hawaii's laws pertaining to theft by extortion and criminal coercion in order to unify the criminal provisions associated with these offenses, making unavailable the "claim of right" defense under certain defined situations, and expanding Hawaii's extortion laws to prohibit extortionate credit transactions.

Your Committee finds that this bill consolidates present Hawaii law dealing with extortion, i.e. theft by extortion and criminal coercion, and Federal law, the Extortionate Credit Transaction statutes, making such law simpler and more comprehensive.

However, your Committee has amended this bill by deleting paragraph (b) of Sec. 707- , Extortion in the first degree, which provides that a person commits the offense of extortion in the first degree if he commits extortion that results in great mental anguish to the victim. Your Committee is of the opinion that defining extortion in the first degree in terms of the great mental anguish of the victim is too subjective a definition for so serious an offense, extortion in the first degree being a class B felony. That is, inasmuch as the thresholds for great mental anguish differ with the individual involved, inconsistent, at best, or unjust, at-worst, results would occur from making the person who causes such anguish guilty of a class B felony.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1386, 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. 1386, H.D. 1, S.D. 1, C.D. 1.

Senators O'Connor, Ushijima and Carroll
Managers on the part of the Senate

Representatives Yamada, Baker, Honda, Masutani, Jr., Nakamura and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 44 on S.B. No. 692

The purpose of this bill is to extend the repeal date for the Board of Massage to December 31, 1980, under Hawaii's Sunset Law (Chapter 26H, H.R.S.).

Your Committee on Conference has amended this bill by extending the repeal date of this board to December 31, 1981. Since the composition of this board has been changed and assurances have been made that proper regulation of the profession will be provided in the future, the conferees have agreed to review this board again in two years. Your Committee on Conference notes that under a new provision in Chapter 26H, H.R.S., the Legislative Auditor is given the responsibility of preparing the impact statements for each board or commission. In that connection, the conferees have agreed not to require the Legislative Auditor to review more than eight boards or commissions in any one year.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 692, H.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as S.B. No. 692, H.D. 1, C.D. 1.

Senators Cobb, Campbell and Saiki
Managers on the part of the Senate

Representatives Blair, Garcia, Lee, Masutani, Jr., Nakamura and Ikeda
Managers on the part of the House

Representative Garcia did not sign the report.

Conf. Com. Rep. No. 45 on S.B. No. 694

The purpose of this bill is to allow the Collection Agency Board to expire on December 31, 1979, under Hawaii's Sunset Law (Chapter 26H, H.R.S.). This bill also provides for a new statutory chapter which will regulate collection agencies when the Board expires.

Your Committee on Conference has amended the bill by extending the repeal date of the Collection Agency Board to December 31, 1980 and by changing the effective date of this bill to December 31, 1980. The effective date of this bill has been changed so that the new chapter will automatically go into effect upon the repeal date of the board. Your Committee on Conference is also of the opinion that the Legislative Auditor be allowed to assess this board under the new provisions of chapter 26H, Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 694, H.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as S.B. No. 694, H.D. 1, C.D. 1.

Senators Cobb, Yim and Saiki
Managers on the part of the Senate

Representatives Blair, Baker, Larsen, Nakamura, Uechi and Ikeda
Managers on the part of the House

Representative Nakamura did not sign the report.

Conf. Com. Rep. No. 46 on S.B. No. 695

The purpose of this bill is to extend the repeal date for the Elevator Mechanics Licensing Board to December 31, 1980, under Hawaii's Sunset Law (Chapter 26H, H.R.S.). This bill will increase the membership of the board from five to seven members, and will change the composition of the board by adding one lay member, not connected with or associated with the elevator or building industry and the branch manager of the Technical Inspection Branch, Division of Occupational Safety and Health, Department of Labor and Industrial Relations. The bill also increases the quorum requirement from three to five and requires that the board receive, investigate, and take appropriate action with respect to all complaints regarding job performance by elevator mechanics.

The conferees are in agreement that in the past the Elevator Mechanics Licensing Board has been relatively inactive in its regulatory function and its own review. However, the conferees have decided to extend the board for three years to December 31, 1982, and to conduct another review at that time. Your Committee on Conference notes that under a new provision in Chapter 26H, H.R.S., the Legislative Auditor is given the responsibility of preparing the impact statements for each board or commission. In that connection, the conferees have agreed not to require the Legislative Auditor to review more than eight boards or commissions in any one year.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 695, 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. 695, S.D. 1, H.D. 1, C.D. 1.

Senators Cobb, Chong and Yee
Managers on the part of the Senate

Representatives Blair, Dods, Honda, Nakamura, Uechi and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 47 on H.B. No. 102

The purpose of this bill is to conform the Hawaii Revised Statutes to section 12 of Article XVI of the Hawaii Constitution.

Your Committee observes that conformity of the Hawaii Revised Statutes requires amendment to two separate areas. One is the "adverse possession" provisions of Part II of Chapter 657 and the other is the "quiet title" provisions of Chapter 669.

H.B. No. 102, H.D. 1, S.D. 1 creates a new section which eliminates obtaining title to land by "adverse possession" for land parcels of more than five acres, but preserves the same for land parcels of five acres and less. In other words, title to land may still be obtained by adverse possession for land parcels of five acres and less.

As for land parcels of more than five acres, the bill is drafted to apply prospectively. Accordingly, where adverse possession of twenty years had matured previous to the voters' ratification of section 12 of Article XVI on November 9, 1978, such claim could still be enforceable under this bill.

The time period of adverse possession also includes those who had a claim based on ten years possession prior to May 4, 1973. This was done to accommodate those with claims prior to revisions of the law in 1973.

Your Committee, upon further consideration, has amended this bill to include broader language to cover adverse possession claims prior to 1978. It is the intent of your Committee that in all adverse possession claims, the property right shall vest at the conclusion of the applicable time period.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 102, 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. 102, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Yamada, Dods, Honda, Larsen, Lee and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 48 on H.B. No. 1432

The purpose of this bill is to clarify requirements for motor vehicle safety and for the issuance of moped operator licenses.

Your Committee notes that in present statutes no person shall drive a moped unless he has a valid drivers license as listed in Sections 236-102 and 286-105 (3), Hawaii Revised Statutes. There are a number of individuals who desire to use a moped but have no need to obtain a drivers license to operate a motor vehicle. Your Committee finds that requiring these individuals to obtain a motor vehicle license is considered to be unrealistic.

Your Committee has amended this bill to state that anyone applying for a driver's license solely to operate a moped, may use a moped to meet the licensing requirements in Section 286-102 and shall be licensed the same as motor scooters.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1432, H.D. 1, S.D. 1, as amended herein, and recommends it pass Final Reading in the form attached hereto as H.B. No. 1432, H.D. 1, S.D. 1, C.D. 1.

Senators Mizuguchi, Takitani and George
Managers on the part of the Senate

Representatives Blair, Dods, de Heer, Honda, Aki and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 49 on S.B. No. 581

The purpose of this bill is to require projects involving existing structures being converted to condominium status to meet applicable county requirements including county building, zoning, and subdivision rules, codes, ordinances, and regulations.

Present law does not require the compliance with county building and zoning codes and the various ordinances and regulations of existing structures being converted to condominiums. The Senate draft would require such projects and structures to comply with the applicable county codes, ordinances, and regulations and will require disclosure of any variance from county codes, ordinances, and regulations at the time of the original construction as well as any current variances.

Under the House of Representatives' draft, the disclosure requirements of sections 514A-40 and 514A-61, Hawaii Revised Statutes, were amended to include provisions describing the legal and physical condition of the building as well as its conformance with the various county building codes and rules. Developers of converted condominiums will be required to disclose the condition of structural components and mechanical and electrical installations to prospective buyers.

In addition, the House draft amended section 514A-20, Hawaii Revised Statutes, to require that all horizontal property regimes conform at the time of creation to all applicable lot and structure zoning requirements.

Your Committee on Conference, after due deliberations, has agreed to retain the Senate draft version amending sections 514A-11 and 514A-40, Hawaii Revised Statutes. In so doing, your Committee has reworded the language for purposes of clarity. Your Committee has also agreed to incorporate the House draft version amending sections 514A-40 and 514A-61, Hawaii Revised Statutes.

Your Committee has decided, however, that the House draft amendment to section 514A-20, Hawaii Revised Statutes, relating to nonconforming uses and structures, is not necessary or proper at this time. Your Committee has, therefore, eliminated that amendment.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 581, 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. 581, S.D. 1, H.D. 1, C.D. 1.

Senators Ushijima, Abercrombie, Cobb, Kuroda, O'Connor, Yamasaki, Yee and George
Managers on the part of the Senate

Representatives Blair, Aki, Honda, Lee, Shito and Ikeda
Managers on the part of the House

Conf. Com. Rep. No. 50 on H.B. No. 14

The purpose of this bill is to implement the provisions of Article VII, Section 3, of the State Constitution to provide for a tax review commission.

Specifically, the constitutional provision reads as follows:

"There shall be a tax review commission, which shall be appointed as provided by law on or before July 1, 1980, and every five years thereafter. The commission shall submit to the legislature an evaluation of the State's tax structure, recommend revenue and tax policy and then dissolve."

This bill provides that the commission shall be appointed by the governor with the advice and consent of the senate and authorizes the commission to enter into contracts with consultants, and to report its findings 120 days prior to the convening of the second regular session of the legislature after the members have been appointed.

As amended by your Committee, this bill proposes that the commission shall consist of seven members and the first commission shall be appointed on or before July 1, 1980.

The appropriation of \$40,000 for the commission remains unchanged but will be subject to lapsing into the general fund on June 30, 1981.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 14, 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. 14, H.D. 1, S.D. 1, C.D. 1.

Senators Cayetano, Kawasaki, Carpenter, O'Connor, Yamasaki, Ajifu and Soares
Managers on the part of the Senate

Senators Kawasaki, O'Connor and Soares did not sign the report.

Representatives Suwa, Morioka, Crozier, de Heer, Fukunaga, Hashimoto, Holt,
Ige, Inaba, Kobayashi, Kunimura, Sakamoto, Takitani, Lacy, Jr., Narvaes
and Sutton
Managers on the part of the House

Representative Holt did not sign the report.

Conf. Com. Rep. No. 51 on S.B. No. 77

The purpose of this bill is to authorize the department of agriculture to manage, operate, and coordinate the agricultural parks program and to establish a revolving fund for purposes directly related to the operation of the agricultural parks system.

The bill provides for an "Agricultural Park Revolving Fund" to be established for "purposes directly related to the management, operation, and coordination of agricultural parks, and into which fund shall be deposited all receipts and revenues available for purposes directly relating to the provisions of this section."

Presently, there is only one agricultural park in operation. It is located in Pahoa, on the Big Island. The park is 600 acres in size and used primarily for ornamental flower production. Parks which are expected to be developed by the end of the biennium include one at Ke-ahole, on the Big Island and one in Kahuku, on Oahu. The Kahuku agricultural park, though not yet developed, presently does have some farming activity being engaged upon the site.

It is expected that during the 1980 fiscal year, only the Pahoa park will be in operation. The Kahuku park will require immediate servicing once it is established in 1980 or 1981 since it presently has some farmers farming the land. The Ke-ahole park is not operational and will not be requiring immediate servicing since no farmers presently utilize the site.

The department of agriculture has indicated that in fiscal 1980 it will require about \$20,000 for one employee to provide management services to the Pahoa park and to arrange leases on the Kahuku park. The \$20,000 would include salary, supplies, and travel expenses. (The employee would be based in Honolulu.) In fiscal 1981, the department anticipates a need for \$40,000 for two employees to provide management services since the Pahoa park, the Kahuku park, and possibly the Ke-ahole park will be in operation. Senate Draft 3 of the bill appropriated \$50,000 and House Draft 1 appropriated \$100,000.

Your Committee has amended section 3 of the bill by appropriating \$60,000 for the Agricultural Park Revolving Fund.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 77, S.D. 3, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 77, S.D. 3, H.D. 1, C.D. 1.

Senators Cayetano, Hara, Takitani, Yim and Ajifu
Managers on the part of the Senate

Representatives Uechi, Inaba, Kawakami, Sakamoto, Takitani and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 52 on S.B. No. 1091

The purpose of this bill is to lapse certain capital improvement appropriations which are unencumbered or which have not yet been lapsed by law.

Your Committee finds that in prior acts of the legislature, appropriations have been made for a number of capital improvement projects for which there remain appropriations and appropriation balances which are unencumbered. The existence of these inactive appropriations, with the corresponding authorization to finance the appropriations through the issuance of bonds, represents potential additional debt service to be counted against the debt limit as defined by the State Constitution.

Recent amendments to the State Constitution recognize the potential problem by having more than one billion dollars of authorized but unissued bonds. A lapsing provision has been established which would cause all general obligation bond funded appropriations

which are unencumbered as of June 30, 1980 to lapse on that date unless otherwise earlier lapsed by law. The intent being that lapsing of inactive appropriations will facilitate accountability for capital improvement projects and will encourage a more rational development of capital improvement programs, requiring executive agencies to conduct on-going reviews of capital improvement programs.

Your Committee has considered the Senate and House versions of this bill and has accepted the House version, except section 6 of that version has been amended to reduce the appropriation for the mass transit system for Oahu from \$6,000,000 to \$3,300,000 and to include the extension of the lapsing date to June 30, 1980. It is the intent of your Committee to make the legislature's intention clear that further appropriations for this project will be considered as they arise so that the legislature will be enabled to continue supervision in this area. Your Committee notes that the City and County of Honolulu has to this date failed to make the matching commitment required by this appropriation.

Your Committee has added a new section 9 indicating the effect of underscoring and bracketing in the bill and renumbered section 9 as section 10.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1091, 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. 1091, S.D. 1, H.D. 1, C.D. 1.

Senators Cayetano, Kawasaki, Abercrombie, Carpenter, Chong, Hara, Mizuguchi, Toyofuku, Yamasaki, Yim, Young, Ajifu, Anderson, Soares and Yee
Managers on the part of the Senate

Senators Kawasaki, Abercrombie, Hara, Ajifu and Anderson did not sign the report.

Representatives Suwa, Morioka, Crozier, de Heer, Fukunaga, Hashimoto, Holt, Ige, Inaba, Kobayashi, Kunimura, Sakamoto, Takitani, Lacy, Jr., Narvaes and Sutton
Managers on the part of the House

Representative Holt did not sign the report.

Conf. Com. Rep. No. 53 on H.B. No. 1252

The purpose of this bill is to strengthen the State's agriculture loan program. Included are clarification of the purpose and intent of the program, addition of the farm credit banks and private lenders from whom loans must be rejected before state loans are authorized, establishment of \$10,000,000 as the aggregate ceiling for the State's contingent liability for insurance of private lenders' loans, changing of interest rates, raising of the loan limit for operating loans, and providing funds for consultative services from the agricultural loan reserve fund. The bill provides for funds for the new farmer program and the regular loan program.

Your Committee upon further consideration has made the following amendments to H.B. No. 1252, H.D. 2, S.D. 1:

- (1) Interest rate for emergency loans has been set at three per cent per annum.
- (2) Appropriation of \$750,000 to the Agricultural Loan Revolving Fund, \$500,000 of which shall be for the new farmer program.
- (3) Appropriation of \$25,000 for consultative services.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1252, 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. 1252, H.D. 2, S.D. 1, C.D. 1.

Senators Cayetano, Ajifu, Hara, Takitani and Yim
Managers on the part of the Senate

Representatives Uechi, Holt, Morioka, Narvaes, Suwa, Toguchi and Uwaine
Managers on the part of the House

Conf. Com. Rep. No. 54 on S.B. No. 1657

The purpose of this bill is to prevent the abandonment of sugarcane farms and to assist certain independent sugar growers in dire need because their costs of production continue to exceed their returns.

Your Committee finds that an emergency situation continues to exist on the island of Hawaii and the financial assistance to certain sugar growers on that island is justified to prevent the abandonment of sugar cane farms that are most vital to the economy of that island and ultimately to the economic well-being of the State. Since the termination of the United States Sugar Act in 1974, virtually all sugar cane producers in Hawaii and in the continental United States have sustained continuing financial setbacks. The sugar industry, however, remains important to the economy of the State and your Committee finds that support of the industry is most essential and therefore your committee approves the intent and purpose of this bill.

Your Committee upon further consideration has made the following amendments to S.B. No. 1657, S.D. 2, H.D. 1.

(1) The first sentence of the new section 3.7 is revised to change the appropriation to \$3,200,000 subject to the proviso that no less than \$1,200,000 shall be loaned to growers whose sugar production is less than 4,000 tons per year and that no more than \$2,000,000 shall be loaned to growers whose sugar production exceeds 4,000 tons per year.

(2) The second sentence of the new section 3.7 provide for repayment loans to growers whose production exceed 4,000 tons per year.

(a) Term of loan not to exceed three years.

(b) Waiver of principal repayment by installment with entire loan due and payable at the end of three years.

(c) Requiring annual payments of interest.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1657, 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. 1657, S.D. 2, H.D. 1, C.D. 1.

Senators Cayetano, Hara, Takitani, Yim and Ajifu
Managers on the part of the Senate

Representatives Uechi, Crozier, Inaba, Sakamoto, Suwa, Takitani and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 55 on H.B. No. 98

The purpose of this bill is to implement the constitutional amendment relating to the Judicial Salary Commission, which provides that there shall be a salary commission to review and recommend salaries for justices and judges of all State courts.

Your Committee feels that the ability of the judicial system to attract able judges is directly related to judicial salaries, and that inasmuch as judges are full-time employees, their salaries should be adjusted as other salaries and wages change.

However, your Committee has amended this bill to provide for a five-member salary commission whose members shall all be appointed by the Governor, subject to confirmation by the State Senate. Your Committee feels that as amended, this bill provides for a commission better able to perform its functions effectively and efficiently.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 98, 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. 98, H.D. 2, S.D. 2, C.D. 1.

Senators O'Connor, Cayetano, Takitani, Ushijima and Carroll
Managers on the part of the Senate

Representatives Yamada, Honda, Masutani, Jr., Morioka, Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 56 on H.B. No. 99

The purpose of this bill is to establish a Commission on Judicial Discipline which shall investigate and conduct hearings regarding allegations of judicial misconduct and make recommendations to the Supreme Court concerning reprisal, discipline, suspension, retirement, or removal of any justice or judge.

Your Committee supports the concept of a Commission on Judicial Discipline, but being of the opinion that the fifteen members provided for in the Senate draft is too unwieldy

and may be counterproductive, has amended the bill to provide for a commission of not less than three members.

Further, your Committee notes that Section 604-2 of the Hawaii Revised Statutes empowers the Supreme Court to summarily remove a District judge when it deems such removal necessary for the public good. Inasmuch as this provision is in conflict with the intent and purpose of this bill, your Committee has added a new Section 4 to the bill conforming Section 604-2 of the Hawaii Revised Statutes by deleting that portion thereof which so empowers the Supreme Court to summarily remove a District Court judge.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 99, 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. 99, H.D. 1, S.D. 2, C.D. 1.

Senators O'Connor, Cayetano, Takitani, Ushijima and Carroll
Managers on the part of the Senate

Representatives Yamada, Hashimoto, Honda, Masutani, Jr., Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 57 on H.B. No. 421

The purposes of this bill are to make a motion for the deferred acceptance of a guilty (DAG) plea allowable only prior to trial and to permit a defendant to whom a DAG plea has been granted to apply for expungement of his official criminal records which action shall be taken one year after the request is made.

To effectuate the purposes of this bill, amendments to subsections (a) and (e) of section 853-1 were instituted. However, inasmuch as your Committee has acted upon both this bill and S.B. No. 393, S.D. 1, H.D. 1, and the latter provides for the procedure for the application for expungement and actual expungement, i.e. the amendment to subsection (e), your Committee has amended this bill by deleting any reference to subsections (b) through (e) of section 853-1, to avoid repetition of identical legislative proposals.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 421, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. 421, H.D. 1, S.D. 1, C.D. 1.

Senators O'Connor, Ushijima and Carroll
Managers on the part of the Senate

Representatives Yamada, Aki, Honda, Nakamura, Shito and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 58 on H.B. No. 643

The purpose of this bill is to make numerous housekeeping amendments to the provisions of Chapters 11, 12, and 15, Hawaii Revised Statutes, relating to elections.

As received by your Committee, this bill (1) increases the compensation for members of the Board of Registration from \$35 to \$45 a day; (2) requires that political parties submit the names of precinct officials no later than ninety days prior to the close of filing for any primary, special primary, or special election; (3) deletes the use of the primary registration list to verify the party affiliation of a precinct official; (4) provides that instruction of precinct officials be conducted no later than 4:30 p.m. on the day prior to an election; (5) provides that voting units be designated by a uniform identification system; (6) deletes the requirement that each county clerk certify to the chief election officer the number of absentee ballots delivered or mailed to voters; (7) eliminates the need to amend the election laws pertaining to election contests each time court filing fees are changed; (8) specifies the date on which nomination papers shall be made available; and (9) eliminates the requirement that absentee ballots found to be invalid prior to election day be rechecked on election day.

Your Committee has amended this bill by deleting Section 2 of the bill which contained amendments to Section 11-72 pertaining to precinct officials. The provisions of this section are included in S.B. No. 9, S.D. 1, H.D. 1, relating to primary elections.

The provisions of the bill relating to the instruction of precinct officials have been amended by deleting reference to a specific time and date by which such instruction is required to be conducted. As amended, the bill simply provides that the training of precinct officials be conducted prior to any election.

Your Committee has amended this bill further, by amending the provisions contained in Section 6 and 7 of the bill relating to court filing fees for election contests. The Senate version establishes the filing fee for election contests at the prevailing rate; however, your Committee believes that the Supreme Court should determine the appropriate fee in such cases. Accordingly, the bill has been amended to provide for costs of court as established by rules of the Supreme Court.

Your Committee has also made clarifying amendments to the provisions pertaining to availability of nomination papers, and technical amendments to correct typographical errors and to renumber sections of the bill, none of which affect its substance.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 643, 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. 643, H.D. 1, S.D. 2, C.D. 1.

Senators O'Connor, Cayetano, Kuroda, Mizuguchi, George and Saiki
Managers on the part of the Senate

Representatives Yamada, Aki, Honda, Nakamura, Shito and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 59 on S.B. No. 181

The purpose of this bill is to support increased efforts by prosecuting attorneys' offices to prosecute career criminals through organizational and operational techniques that have proven effective in selected counties in other states.

Your Committee finds that a substantial amount of serious crime is committed by a relatively small number of multiple and repeat felony offenders, commonly known as career criminals.

This bill represents an attempt to alleviate this ever increasing problem by providing for the establishment of a Career Criminal Prosecution program to be administered by the Office of the Attorney General. It requires the Office of the Attorney General to direct the program and gives it the discretion to allocate and award funds to counties in which career criminal prosecution units are established in substantial compliance with the policies and criteria which the Attorney General establishes with respect thereto. The establishment of such policies and criteria is not subject to Chapter 91 of the Hawaii Revised Statutes.

Your Committee upon further consideration has amended S.B. No. 181, S.D. 2, H.D. 1, to include a general definition of persons subject to career criminal prosecution efforts, which the Attorney General shall use as a basis for establishing prosecution within the counties.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 181, 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. 181, S.D. 2, H.D. 1, C.D. 1.

Senators O'Connor, Cobb and Carroll
Managers on the part of the Senate

Representatives Yamada, Aki, Garcia, Honda, Shito and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 60 on S.B. No. 1682

The purpose of this bill is to better define the properties that may be forfeited when used in illegal gambling, and to allow the trial judge at the criminal trial to order forfeiture of such properties at his discretion if he is satisfied that the preponderance of evidence indicates that the owner had allowed its use.

This bill establishes the quantum of evidence required for forfeiture as the preponderance of evidence as against the criterion of "beyond a reasonable doubt."

It should be noted in this regard that an owner who may feel he has a good claim to the property in question is allowed to intervene under the provisions of section 701-119. In such intervention, the property is returned to him if he proves by the preponderance of evidence that he was not in complicity in the illegal use of the property.

Your Committee amended the H.D. 1 version of the bill to designate only paraphernalia used in fighting animals and birds to be susceptible to its forfeiture requirements as distinguished from the animals or birds themselves which will not come within the ambit of the forfeiture.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1682, 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. 1682, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Yamada, Dods, Garcia, Honda, Larsen and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 61 on H.B. No. 923

The purpose of this bill is to reduce the increasing number of books and other library materials that are being lost by State libraries through the failure of borrowers to return them.

Sanctions against persons who wilfully detained books and other library materials were repealed when the Penal Code was enacted in 1973. While the Penal Code of 1973 addressed the problem of unlawful removal of books and other library materials, it did not cover wilful detention.

Your Committee finds that the volume dollar loss faced by our State libraries due to irresponsible borrowers is reaching serious proportions. However, your Committee feels that this act does not constitute a criminal offense and therefore, the penalties for the wilful detention of books and other library materials should be established by the agency or department that administers State libraries, which could best determine the appropriate civil penalties commensurate with wilful detention.

Furthermore, due to the escalating inflation trends, the replacement value of the lost books or materials will also increase proportionately to the inflation rate. Accordingly, your Committee has amended this bill by making the penalty charge for lost or detained books which have not been returned 30 days after written notice, commensurate with the replacement value of such materials.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 923, 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. 923, H.D. 1, S.D. 1, C.D. 1.

Senators Campbell, O'Connor, Young and Ajifu
Managers on the part of the Senate

Representatives Yamada, Baker, Dods, Garcia, Honda and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 62 on H.B. No. 1634

The purposes of H.B. No. 1634, H.D. 1, S.D. 1, are to open the State Tort Liability Act to trial by jury and to disallow the court from awarding attorney's fees against the State in addition to the judgment.

Your Committee notes that the State Tort Liability Act was originally modeled after the Federal Tort Liability Act. The latter was drafted specifically to disallow jury trials on the theory that a governmental defendant, by virtue of its impersonal posture and seemingly limitless financial resources, may be vulnerable to manipulation of the passions of juries by skillful counsel for claimants. The testimony of the Attorney General indicates that the experience of its office suggests that a jury's judgment is preferred over that of our judges.

Your Committee feels that it would be grave error to open the floodgates of jury passion to all cases under the State Tort Liability Act. Recognizing that claims under that Act are essentially allowed as sovereign dispensation, we conclude that jury trials should be availed only when all of the parties in the case agree to a trial by jury.

Your Committee has amended H.B. No. 1634, H.D. 1, S.D. 1, to make attorney's fees payable out of judgments awarded to plaintiffs, thus treating the problem more directly. However, such limitation is not applicable to attorney's fees and costs that the court may allow as sanctions against the Attorney General. We would observe in that regard that the Office of the Attorney General should treat everyone fairly even when they are opposing litigants. Public confidence in the integrity of that office is paramount to our democratic process and prompts that posture. Thus, your Committee concludes that it is necessary that the authority of the court to award sanctions against the Attorney General and his

staff should not be negated by implication. Such sanctions are to be allowed similarly as against all other party litigants whenever unreasonable conduct by the Attorney General or his staff is deemed by the court to have unfairly required accrual of attorney's fees and costs by the opposing party.

Your Committee has amended H.B. No. 1634, H.D. 1, S.D. 1, to conform the State Tort Liability Act to the Federal Tort Liability Act by raising the maximum allowable attorney's fees (excepting sanctions) from twenty percent to twenty-five percent.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1634, 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. 1634, H.D. 1, S.D. 1, C.D. 1.

Senators O'Connor, Takitani, Ushijima, Carroll and Saiki
Managers on the part of the Senate

Representatives Yamada, Aki, Honda, Nakamura, Shito and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 63 on S.B. No. 1049

The purpose of this bill is to clarify the offense of unreasonable noise.

Your Committee finds that under current statutes, in order to convict a person under the disorderly conduct statute for making unreasonable noise, one must prove that such person's actions involved a gross deviation from the standard of conduct of a law-abiding citizen. Prosecution has been difficult using this broad, if not vague, definition. This bill authorizes any police officer to make a determination of what is unreasonable noise and makes the failure of a person to heed his warning a punishable offense.

Your Committee, upon further consideration, has amended S.B. No. 1049, S.D. 1, H.D. 1 to hold the renter, resident, or owner-occupant of the premises guilty of a noise violation if he knowingly or negligently consents to unreasonable noise on his premises.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1049, 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. 1049, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Yamada, Baker, Blair, Honda and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 64 on H.B. No. 1215

The purpose of this bill is to amend Section 46-6, Hawaii Revised Statutes, regarding current park dedication legislation.

The bill serves to provide the counties with increased flexibility in the enactment of park dedication procedures. The bill would allow the counties the option of adopting a park dedication ordinance and provide them with more flexibility in setting park dedication fees and establishing by ordinance a time limit within which they must spend the park dedication fees they have collected.

Your Committee upon further consideration has amended the language of subsection (a) to make mandatory the option of counties with populations less than 200,000 to adopt park dedication ordinances.

Additionally, your Committee has amended this bill to make nonsubstantive technical and grammatical changes which do not affect the intent, purpose, or content of this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1215, 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. 1215, H.D. 1, S.D. 3, C.D. 1.

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

Representatives Kawakami, Holt, Segawa, Shito and Lacy, Jr.
Managers on the part of the House

Conf. Com. Rep. No. 65 on H.B. No. 732

The purpose of this bill is to increase the maximum capital loan limit from \$50,000 to \$100,000. This increase would be in line with the increase in the cost of doing business in Hawaii and would provide the necessary flexibility to the program in assisting small business concerns.

The bill also provides that loans are to bear simple interest at a rate of no less than two per cent below the average prime interest rate as determined by the board of governors of the Federal Reserve System at the time the loan is made rather than at the seven and one-half per cent a year rate currently established by statutes.

The bill also reduces from five to two years the time period that the director may defer the first installment in the principal of a loan.

Your Committee upon further consideration has made the following amendments to H.B. No. 732, S.D. 2:

(1) The interest rate is being limited to seven and one-half percent a year, simple interest. Your Committee believes that a fluctuating interest rate will make administration of the bill very cumbersome. A set, specific interest rate will streamline administration. Another reason for the change made by your Committee is that banks, rather than the board of governors, set the prime rate. Thus the prime rate varies from bank to bank. The prime rate is also not the best basis for determining the interest rate on capital loans.

(2) The time limit for the commencement date for the repayment of the first installment on the principal of each loan has been increased from two to five years, subject to deferral by the director. Similarly, Act 190, Session Laws of Hawaii 1978, increased the deferral of principal payments for agricultural loans from two to five years at the lender's discretion. It takes approximately five years for a new business to get on its feet, and thus any decrease in the deferral time works contrary to the intent of the law in aiding fledgling businesses.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 732, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 732, S.D. 2, C.D. 1.

Senators Yim, Cayetano and Anderson
Managers on the part of the Senate

Representatives Kawakami, Hashimoto, Holt, Morioka and Narvaes
Managers on the part of the House

Conf. Com. Rep. No. 66 on H.B. No. 1667

The purpose of this bill is to modify the definition of "motor carrier" to include certain private carriers of passengers, and to provide the Department of Transportation with a means to enforce compliance with the motor carrier safety law and rules and regulations adopted as authorized.

There are certain passenger carrying activities being conducted by motor vehicle in furtherance of commercial enterprises which cannot be classified as common carrier or contract carrier operations and, therefore, are without supervision with respect to the safety of this type of operation. The enactment of this bill would insure that this type of passenger carrying activity would be subject to the same safety criteria as common and contract passenger carriers by motor vehicle.

Your Committee has amended Section 288-201, Hawaii Revised Statutes, by amending the definition of "motor carrier" to read:

"(4) "Motor Carrier" as used in this part means a common carrier by motor vehicle, a contract carrier by motor vehicle, or a private carrier by motor vehicle, all as defined in section 271-4. any person who owns a motor vehicle used in, or who engages in the transportation of persons or property by motor vehicle on the public highways in the furtherance of any commercial, industrial or educational enterprise."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1667, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1667, S.D. 1, C.D. 1.

Senators Chong, Yim and Soares
Managers on the part of the Senate

Representatives Blair, Dods, Say, Larsen, Nakamura and Ikeda
Managers on the part of the House

Representatives Nakamura and Ikeda did not sign the report.

Conf. Com. Rep. No. 67 on S.B. No. 1043

The purpose of this bill is to more clearly define the trial judge's discretion in awarding interest in civil cases.

Your Committee understands that at the present time interest is generally awarded commencing on the day the judgment is rendered. Where the issuance of a judgment is greatly delayed for any reason, such fixed commencement date can result in substantial injustice. Allowing the trial judge to designate the commencement date will permit more equitable results. Also, it is expected that party litigants will give serious regard to this discretion on the part of the trial judge so that those who may have had an unfair leverage by the arbitrariness of the prior rule will arrive at the realization that recalcitrance or unwarranted delays in cases which should be more speedily resolved will not enhance their position or assure them of a favorable award.

S.B. No. 1043, S.D. 1, H.D. 1, has been amended to clarify its language without effecting any changes of substance.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1043, 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. 1043, S.D. 1, H.D. 1, C.D. 1.

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

Senator Ushijima did not sign the report.

Representatives Yamada, Baker, Blair, Honda and Medeiros
Managers on the part of the House

Representative Baker did not sign the report.

Conf. Com. Rep. No. 68 on H.B. No. 95

The purpose of this bill is to implement Article I, section 11 of the Constitution of the State of Hawaii, as amended by the voters at the general election of 1978 and pertaining to grand jury counsel, and to provide a statutory framework for grand jury proceedings.

The specific language of the Constitution with respect to grand jury counsel to which such conformance is addressed reads:

"Whenever a grand jury is impaneled, there shall be an independent counsel appointed as provided by law to advise the members of the grand jury regarding matters brought before it. Independent counsel shall be selected from among those persons licensed to practice law by the supreme court of the State and shall not be a public employee. The term and compensation for independent counsel shall be as provided by law."

Your Committee advises that, as amended, this bill also encompasses provisions of S.B. No. 168, S.D. 1, H.D. 1 relating to grand jury proceedings. We are advised that such topic may be appropriately brought within the broad ambit of the title of H.B. No. 95, "grand jury." It is your Committee's opinion that a unified treatment of the provisions of both bills provides a more orderly and simplified process for appropriate legislative consideration of these topics. We note that public hearings have been appropriately held in the course of prior deliberations on both bills.

H.B. No. 95, H.D. 2, S.D. 2, C.D. 1 conforms generally to the version of the Senate draft insofar as the provisions addressed to the grand jury counsel are concerned. The amendments made by your Committee in that regard are as follows:

1. While S.D. 1 sought to provide its principal provisions in a new chapter to the Hawaii Revised Statutes, C.D. 1 addresses the same by way of amendments to chapter 612. As H.B. No. 95 seeks to resolve the problems raised by the separate bills, H.B. No. 95 and S.B. No. 168, it was deemed that convenient public access to information relating

to the grand jury and all allied matters should have a single statutory reference. In this regard, the grand jury is already treated under chapter 612, and it was concluded that chapter 612 was the more appropriate statutory reference.

2. C.D. 1 also provides that whenever practicable, the term of the grand jury counsel should be such that it will not be co-terminous with the term of the grand jury. This provision was taken from H.B. No. 95, H.D. 2, and the purpose is to provide by the staggered terms between the grand jury and its counsel, that the relationship between them will not become one of such intimacy that dominance by the grand jury counsel or loss of such counsel's independence will result.

H.B. No. 95, H.D. 2, S.D. 2, C.D. 1 also conforms generally to the version of the House draft of S.B. No. 168 insofar as the provisions addressed to grand jury deliberations are concerned. The amendments made by your Committee in that regard are as follows:

1. The grand jury deliberations are required to be private.
2. The grand jury is allowed to make inquiries of its counsel.
3. All inquiries made by the grand jury of its counsel are required to be verbatim and made part of the record.
4. Grand jury proceedings conducted in violation of the statutory restrictions governing its deliberations are made subject to dismissal by the court without prejudice.

Your Committee's staff consulted the representative from the prosecutor's office, City and County of Honolulu, who was in attendance observing the conference, and was assured that matters pertaining to grand jury proceedings are handled by the courts as matters required to be addressed as pre-trial issues, and that as such, there would be no danger of violations of such provisions resulting in dismissal of an otherwise valid indictment which would be barred from re-indictment by the theory of "double jeopardy." Nonetheless, in abundance of caution, your Committee amended the former draft to require that such dismissal shall be "without prejudice."

Further in that regard, the former draft was amended to allow dismissals of indictments for violations of grand jury proceedings to be brought by either party or the court. Although almost invariably such motion would be brought by the defense, your Committee envisioned the possibility of the prosecution or the court discovering grand jury irregularity and bringing such motion.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 95, 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. 95, H.D. 2, S.D. 2, C.D. 1.

Senators O'Connor, Cayetano, Takitani, Ushijima and Carroll
Managers on the part of the Senate

Representatives Yamada, Garcia, Honda, Masutani, Jr., Uechi and Sutton
Managers on the part of the House

Representative Sutton did not sign the report.

Conf. Com. Rep. No. 69 on H.B. No. 282

The purpose of this bill is to establish a Hawaii criminal justice information data center to be responsible for the collection, storage, dissemination, and analysis of all pertinent criminal history record information from all criminal justice agencies and to provide for the collection, storage, and dissemination of criminal history record information by criminal justice agencies in such a manner as to balance the right of the public and press to be informed, the right of privacy of individual citizens, and the necessity for law enforcement agencies to utilize the tools needed to prevent crimes and detect criminals in support of the right of the public to be free from crime and the fear of crime.

This legislation will bring the State of Hawaii into compliance with federal regulations, specifically section 524(b) of the Crime Control Act of 1973. This section requires the Law Enforcement Assistance Administration (LEAA) to take steps to insure that agencies which collect, store, or disseminate criminal history record information with LEAA funds will (1) obtain disposition; (2) keep information current; (3) maintain security; (4) restrict use to legitimate purposes; and (5) allow inspection by the record subject. Federal regulations implemented by the LEAA and the Department of Justice pursuant to this mandate

urge states to establish central record repositories for maintenance of comprehensive statewide criminal history record information files. The intended effect of these regulations is that each state receiving LEAA funds is expected to statutorily incorporate its data center. In Hawaii's case, all functions currently being performed by the Hawaii Criminal Justice Statistical Analysis Center (SAC) will be incorporated into the data center established under H.B. No. 282, H.D. 1, S.D. 1, C.D. 1.

Section 3 of the bill, as provided herein, contains a clause to invalidate any provision of this bill which is held to be a state mandate within the meaning of Article VIII, section 5, of the Constitution of the State of Hawaii. Under this Constitutional amendment, the State is required to share in the cost to the counties of any additional services required of the counties by legislative action. Based on the fact that H.B. No. 282 (companion bill to S.B. No. 392) was originally requested by the counties to prevent the loss of LEAA funding, it is the finding of the Committee that this legislation does not fall within the ambit of Article VIII, Section 5. However, if the opposite is found to be true then, under this bill such a provision shall be invalid.

Your Committee upon further consideration has made the following amendments to H.B. No. 282, H.D. 1, S.D. 2:

(1) The authorization of dissemination of criminal history record information for research, evaluative, or statistical activities under section -7(3) has been deleted. This change to the original bill was made to conform to federal law. However, it was erroneously based on an outdated and subsequently amended version of the Crime Control Act of 1973. The authorization for dissemination of this type of information is already provided in the section entitled "Limitations on dissemination." (Section 6 in H.B. No. 282 H.D. 1, S.D. 1; Section 9 in H.B. No. 282, H.D. 1, S.D. 1, C.D. 1).

(2) Section -2 (Establishment of the data center) of H.B. No. 282, H.D. 1 has been reinserted in an amended form. It provides that the governor, and not the chief justice, shall appoint the director of the data center. Further, the director shall serve in an interim capacity. The section establishing the data center has been added because the bill makes no sense without it. Appointment of the director by the governor on an interim basis is necessary until a more extensive examination of where the data center should permanently be located can be made.

(3) Section -3 (Reporting to data center) and Section -4 (Query of data center) of H.B. No. 282, H.D. 1 have been reinserted. These additions naturally follow from the addition of Section -2.

(4) H.B. No. 282, H.D. 1, S.D. 2, has been amended by reinserting section -11 (Office of correctional information and statistics) of H.B. No. 282, H.D. 1, S.D. 1. This new section mandates coordination of the SAC with the computer center under the jurisdiction of the Intake Service Centers. The Committee made this change because of its concern for the potential overlapping activities and functions of these two bodies, the duplication of personnel and the large amount of money being spent. The Committee intends by addition of this section to eliminate such duplication of effort.

As a final note, the Committee wishes to make clear that there are unresolved questions related to the data center concerning (1) the relationship of the center with other state and county law enforcement agencies, (2) the permanent location of the center for administrative purposes, (3) whether there should be and who should appoint an advisory committee, and (4) whether the director of the center should be appointive and if so by whom. It is the intent of the Committee in recommending passage of this bill that these questions will be more permanently resolved following study during the interim prior to the Regular Session of 1980.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 282, 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. 282, H.D. 1, S.D. 2, C.D. 1.

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

Senator Ushijima did not sign the report.

Representatives Yamada, Holt, Honda, Nakamura, Shito and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 70 on H.B. No. 723

The purpose of this bill is to revise section 661-7, Hawaii Revised Statutes, which provides for the forfeiture of a fraudulent claim made against the State.

Your Committee upon further consideration has made the following amendments to H.B. No. 723, H.D. 1, S.D. 1.

(1) Inserted a provision for civil penalties that will allow specific civil penalties to be assessed including payment of interest on excess payments received, payment of an amount not to exceed double the amount of the excess payment, and a penalty in the sum of \$1,000 for each fraudulent claim made against the State.

These remedies will only apply to a claim for under \$5,000. If the claim is for \$5,000 or more, the case is not covered by section 661-7(b) of H.B. No. 723, H.D. 1, S.D. 1, as amended herein. In such a case, the forfeiture provision, section 661-7(a), as provided in H.B. No. 723, H.D. 1, S.D. 1, C.D. 1, applies. The \$5,000 ceiling has been inserted because the Committee finds the multiple penalty provision is inappropriate for large claims against the State. In such a case, forfeiture by itself is a sufficiently severe penalty. The figure \$5,000 was recommended by the Welfare Fraud, Medical Fraud and Unemployment Insurance Units of the Office of the Attorney General.

These remedies will be cumulative so the State will have the flexibility to obtain the maximum deterrent effect when it is demonstrated that a fraudulent claim has been submitted. Interest will be allowed on any amount that is actually paid. It is only fair that the government be allowed to collect interest when it has been deprived of the use of its money. Allowing the penalty to be set at an amount not to exceed double the amount of the excess benefits or payments serves as a deterrent for the individual or business that submits one or two larger (though under \$5,000) fraudulent claims. The proposed amendment which allows the assessment of \$1,000 for each fraudulent claim made against the State will be utilized in the event many fraudulent claims are filed by one person but the dollar amount of each claim is small.

(2) The interest and penalties provided for in subsection (b) of section 661-7, Hawaii Revised Statutes, as amended in H.B. No. 723, H.D. 1, S.D. 1, C.D. 1, may be determined and collected pursuant to an administrative hearing conducted by the department to which the claim was submitted. However, in the event that a department does not have the capability to create an administrative hearing procedure, it may use the option of bringing a civil action for recovery of the penalties and interest.

(3) Subsection 661-7(b) of H.B. No. 723, H.D. 1, S.D. 1 which provided that fraud or attempted fraud shall be a complete and affirmative defense has been deleted. It is the finding of the Committee that this will not change the law on this point since substantially the same language was adopted by the Hawaii State Supreme Court in interpreting section 661-7, Hawaii Revised Statutes. (Associated Engineers and Contractors, Inc., and Chris Berg, Inc. v. State of Hawaii, 58 Haw. 187, 567 P.2d 399 (1977)).

(4) Various corresponding clerical and technical changes have been made throughout the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 723, 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. 723, H.D. 1, S.D. 1, C.D. 1.

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

Senator Chong did not sign the report.

Representatives Yamada, Garcia, Honda, Larsen, Masutani, Jr. and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 71 on S.B. No. 1539

The purpose of this bill is to clarify the "Good Samaritan Law" by adding basic and life support personnel to the definition of "rescue team", and defining "good faith".

Presently, there appears to be some confusion as to whether life support personnel are included in the provisions of the "Good Samaritan Law" which protects persons who respond to emergency situations. This bill clarifies this by specifically including life support personnel under the present law.

Your Committee upon further consideration has made the following amendments to S.B. No. 1539, S.D. 1, H.D. 1:

- (1) Added a purpose paragraph in section 1 to clarify the bill's intent.
- (2) Amended subsection (b) to include physicians working in direct communication with a rescue team, in the provisions of the "Good Samaritan Law".
- (3) Added a new subsection (c) to specify, under the law, a physician who renders emergency medical care in a hospital to a person, who is in immediate danger of losing his life, shall not be liable for any civil damages, if the physician exercises a standard of care expected of similar physicians under similar circumstances.

Your Committee finds that situations exist on the neighbor islands, where adequate personnel may not always be available in certain hospitals. Consequently, cases may arise where the first physician able to render emergency medical care may not be the physician on duty. It is the intent of your Committee to accommodate these situations involving situations involving a physician, who does not receive remuneration or has no expectation of such, and who renders emergency medical care in a hospital.

- (4) Added section 3 which states:

"Section 663-1.5(c) of section 2 of this Act does not affect penalties that were incurred, and proceedings that were begun before its effective date."

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1539, 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. 1539, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Yamada, Honda, Lee, Masutani, Jr., Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 72 on S.B. No. 1230

The purpose of this bill is to help curtail the increasing rate of shoplifting by adding a new section to the penal code relating to shoplifting.

Your Committee upon further consideration has amended this bill to return substantially to the form of S.B. No. 1230, providing for minimum mandatory fines for shoplifting offenses.

However, your Committee, concerned with the possibility of the creation of a "debtor's prison", has retained the alternative of public service as a means of working off the fine. Thus, in the court's discretion, the defendant found not to be in contumacious default in the payment may be ordered to report to either the Department of Accounting and General Services, the Department of Transportation, the Department of Land and Natural Resources or perform a certain number of hours of community service as the court shall provide.

Your Committee refers to section 706-605(1)(f), Hawaii Revised Statutes, relating to authorized disposition of convicted defendants, and the ongoing program of the district court counselors. In this program, the defendant who has been sentenced reports to the court counselor, who assigns him to a specific department for work and supervision. The department responsible will report back to the court upon completion of the sentence. If the sentence was not completed, or completed unsatisfactorily, the court may impose a new sentence.

Your Committee finds that the public service alternative has become increasingly popular as a sentencing alternative, also used in other misdemeanors, traffic and litter violations. However, more legislation is necessary in this area, to delineate the relative number of hours of service for specific crimes, and other criteria for using this sentencing alternative.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1230, H.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1230, H.D. 1, C.D. 1.

Senators O'Connor, Cobb and Carroll
Managers on the part of the Senate

Representatives Yamada, Aki, Honda, Larsen, Shito and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 73 on H.B. No. 92

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the voters at the general election of 1978. The specific language of Article VI to which conformance is addressed by this bill reads as follows:

"ARTICLE VI
THE JUDICIARY
JUDICIAL POWER

Section 1. The Judicial power of the State shall be vested in one supreme court, one intermediate appellate court, circuit courts, district courts and in such other courts as the Legislature may from time to time establish. The several courts shall have original and appellate jurisdiction as provided by law and shall establish time limits for disposition of cases in accordance with their rules.

SUPREME COURT; INTERMEDIATE APPELLATE COURT;
CIRCUIT COURTS

Section 2. The Supreme Court shall consist of a chief justice and four associate justices. The Chief Justice may assign a judge or judges of the Intermediate Appellate Court or a circuit court to serve temporarily on the Supreme Court, a judge of the Circuit Court to serve temporarily on the Intermediate Appellate Court and a judge of the District Court to serve temporarily on the Circuit Court. As provided by law, retired justices of the Supreme Court also may serve temporarily on the Supreme Court at the request of the Chief Justice. In case of a vacancy in the office of the Chief Justice, or if the Chief Justice is ill, absent or otherwise unable to serve, an associate justice designated in accordance with the rules of the Supreme Court shall serve temporarily in place of the Chief Justice."

(1) The legislative task regarding H.B. No. 92, H.D. 2, S.D. 2. The task presented by Article VI, Sections 1 and 2, pertaining to H.B. No. 92, H.D. 2, S.D. 2, is to establish "one Intermediate Appellate Court." The express language mandates no specific make-up of the structure of that court, other than that it shall be a single court contrasted against the geographical distribution of several intermediate courts found in many states.

Central to that task is the delineation of the jurisdiction and powers of the Intermediate Appellate Court and its coordination with that of the Supreme Court and that of other courts and sources of appeal. There was serious discussion on the subject by the delegates to the Constitutional Convention, and we now turn our attention in that direction:

First of all, and most significantly, the delegates to the Constitutional Convention set out their basic concern for the establishment of the Intermediate Appellate Court to be the urgent need to relieve the extreme congestion of cases presently in the Supreme Court and the inordinate delay of appellate disposition that has resulted. Standing Committee Report No. 52 of the Constitutional Convention indicated at page 3 its "basic concern over the evergrowing congestion of cases at the appellate level of our judicial system and the concurrent increase in the length of time it takes for both civil and criminal cases to reach a conclusion."

Your Committee recognizes that implicit in this concern is the need to fashion a jurisdictional structure for the Intermediate Appellate Court that will, by the challenge and scope of its responsibility, be able to attract the best and most qualified men to its bench, and which will address the problems of appellate congestion by effectuating smooth coordination among the different courts and effective distribution of workload for the appellate process.

The delegates to the Constitutional Convention also addressed themselves to a brief discussion of the many objectives the Intermediate Appellate Court should achieve in addition to the relief of appellate congestion. Standing Committee Report No. 52 states on pages 3 and 4:

"Your Committee, after careful consideration of all the proposed solutions to the problem of appellate congestion, recommends the establishment of an intermediate appellate court as the best, most effective and permanent solution to the problem. It is intended that the major duty of the intermediate appellate court will be to handle the more routine appellate cases of reviewing trial court determinations for errors and correcting such errors. This function is presently performed by the Supreme Court. By relieving the Supreme Court from this necessary but time consuming function, the Supreme Court can devote more time to its principal duty of selective review and formulation of decisional law.

It is intended, however, that both the supreme court and intermediate appellate court have jurisdiction to hear all types of cases. A unitary filing system would be instituted by which all cases on appeal would be filed with one clerk's office and would require only one filing fee regardless of which or if both appellate courts review the case. The Supreme Court could use a bypass mechanism to immediately hear, in its discretion, special types of appeals. Although all double appeals could not be avoided, this mechanism would keep those to a minimum. It is intended, however, that in most instances, appellate review would be terminated at the intermediate appellate level. This two-tiered appellate system would preserve the vital law-shaping function of the Supreme Court and also insure a litigant's right to a meaningful appeal by affording a review on the merits without unnecessary delay."

Your Committee notes that the foregoing discussion recognizes the many and serious problems involved in fashioning the structure of the Intermediate Appellate Court. Upon analysis, the language of Standing Committee Report No. 52 suggests a structure that should broadly:

- (a) require the Intermediate Appellate Court to handle the "more routine appellate cases;"
- (b) allow such court, together with the Supreme Court, to hear "all types of cases;"
- (c) allow the Supreme Court a "by-pass" in the hearing of "special types of appeals;"
- (d) afford the desired result of minimizing "double appeals;" and
- (e) preserve the "vital law-shaping function of the Supreme Court."

Additionally, Standing Committee Report No. 52 suggests a unitary filing system and imposition of a provision to ensure "a review on the merits without unnecessary delay."

The foregoing enumeration and terse discussion of the various objectives sought to be achieved indicates to your Committee that the delegates to the Constitutional Convention intended that the Legislature should act affirmatively to explore these separate objectives, weigh their interrelationship and obtain a rational balance among them in fashioning the ultimate structure for the Intermediate Appellate Court.

Finally in this regard, although your Committee has not considered the discussions in the Committee reports of the delegates to the Constitutional Convention to be mandatory, we have given such discussion serious consideration, and would note, at this time, that we have found them to be comprehensive and thoughtful. This is not to imply that all of the members of your Committee agreed with the delegates that the establishment of an Intermediate Appellate Court was the best solution to the problem at hand. Every member, however, recognized that the policy to establish such court is imposed upon the Legislature by the voters as a constitutional mandate. Within that posture, we have found the delegates' discussions to be very helpful, and proceeded to fulfill our legislative task.

(2) Structure for judicial review. Your Committee upon careful scrutiny of the earlier drafts of the bill, arrived at the decision to amend Chapter 602 of the Hawaii Revised Statutes by changing the title to "Court of Appeals" and to divide it into two parts--the first part devoted to the Supreme Court and the other, to the Intermediate Appellate Court. A description of the structure of judicial review constructed by our amendments to Chapter 602 is as follows:

- (a) Concurrent jurisdiction. The starting point of the jurisdictional structure is the establishment of concurrent jurisdiction between the Supreme Court and the Intermediate Appellate Court. This is dictated by the unique role the Intermediate Appellate Court is expected to play. The essence of its establishment is not the construction of an additional layer of appeal. Rather, its function is to alleviate appellate congestion by relieving the Supreme Court of its appellate load in the more routine and minor decisions in all types of cases.

It should also be noted that the establishment of concurrent jurisdiction fulfills the constitutional mandate that the jurisdiction of the Intermediate Appellate Court be "provided by law."

- (b) Unitary filing. The structure of concurrent jurisdiction conveniently accommodates the establishment of a unitary filing system, which was thought by the delegates to be desirable. All appeals addressed to either court--Supreme Court and Intermediate Appellate Court--will be filed with the Supreme Court and there will be one filing fee.

- (c) Assignment of cases. The Chief Justice or his designee from among the Supreme Court justices or Intermediate Appellate judges, is given the task, statutorily, to assign the cases filed under the unitary filing system, and to route them according to the magnitude of their importance. It should be observed that concurrent jurisdiction allows for such assignment to reach all such types of cases, and avoids the arbitrary routing of cases to either court which would have resulted if the jurisdiction of these courts had been categorized by types of cases.
- (d) Criteria for assignment. A case is to be assigned to the Supreme Court if it "involves a question of . . . importance." By shunting lesser cases to the Intermediate Appellate Court, we preserve "the vital law-shaping function of the Supreme Court" by allowing it to spend less time on routine cases.

The language routing cases involving questions of importance to the Supreme Court was adopted from similar language appearing in the laws of the State of Illinois. Realizing its breadth, it was thought desirable that such language be supplemented by more specific criteria.

Your Committee owes much for the following criteria to former Justice of the Supreme Court, Bert T. Kobayashi. Such criteria are:

- (1) Whether the case involves a question of first impression or presents a novel legal question; or
- (2) Whether the case involves a question of State or Federal constitutional interpretation; or
- (3) Whether the case raises a substantial question of law regarding the validity of a State statute, County ordinance, or agency regulation; or
- (4) Whether the case involves issues upon which there is an inconsistency in the decision of the Intermediate Appellate Court or of the Supreme Court; or
- (5) Whether, in a criminal case, the sentence involved is life imprisonment without the possibility of parole.

It should be emphatically noted that the foregoing criteria is not intended to exclude the consideration of other criteria which may be relevant upon the general consideration of the "importance" of a particular case.

It should also be noted that the existence or absence of any among the listed criteria is not to be determinative of the question of assignment exclusive of other considerations. Rather, it is specifically provided that the assigning justice or judge is allowed to consider the substantiality of the applicable criteria in each case.

It is also expected that adequate consideration will be given to the workloads of both courts in determining case assignment.

It is very important to observe that the criteria to be used in assignment of cases are set out in the Hawaii Revised Statutes. Your Committee considered that where the jurisdictions of the two courts are concurrent as in this case, it is important that criteria for assignment be provided statutorily, so that appellants and other potential parties in appeal should have easy access to such criteria and thereby afford a measure of certainty as to which court their appeal is likely to be assigned.

- (e) Motion for reassignment. Your Committee considered the possibilities that the assignment justice may err or that intervening changes of circumstances occurring after the original assignment may warrant a reassignment of the case from the Intermediate Appellate Court to the Supreme Court.

We expect that the original assignment will need to be changed only infrequently at best. However, flexibility is the key to remedy, and we have provided that a party may, at any time before the issuance of a decision by the Intermediate Appellate Court, move that the case be reassigned to the Supreme Court.

The movant is required to indicate the precise grounds which indicate that "the case on appeal involves a question of such importance as to warrant a direct appeal." Although we have not provided specific statutory criteria as in the case of the original assignment of cases, it is our intent that similar criteria be used with the additional requirement of establishing either the assigning justice's error or intervening change of circumstances.

The motion for reassignment is discretionary upon both courts. First, it is discretionary upon the Intermediate Appellate Court whether to join in such motion by its certification. Failure of such court to certify defeats the motion.

Secondly, even when so certified, the certification itself is made discretionary upon the Supreme Court as to whether it will accept such reassignment. The Supreme Court's refusal also defeats the motion and the case is required to proceed to decision by the Intermediate Appellate Court.

It should be noted that with respect to the motion for reassignment and elsewhere, the bill leaves much unsaid with respect to specific details of its application. This is intentionally done to allow the Supreme Court to accomplish the same by rules as set out by Article VI of the Hawaii State Constitution.

For example, just how many Intermediate Appellate judges must join in the certifications for reassignment and how many justices must join to accept such certifications is specifically left to be handled through Supreme Court rules. Similarly, the transmittal of briefs and records is also left to be provided by rule.

- (f) Reassignment by Supreme Court order. Your Committee also considered the possibility that the circumstances of a given case may require a more expeditious handling of a reassignment than that provided by way of motion for reassignment. In that regard, it is observed that the motion for reassignment would normally originate from among the litigants, and it is required to pass through the process of deliberation by both courts before reassignment is effected. This is a rather comprehensive procedure designed to allow only the most serious cases to obtain reassignment.

However, it was considered that emergency situations might arise in which the procedure by way of motion for reassignment might prove too cumbersome, with justice being prevented by the very comprehensiveness of the procedure. Accordingly, your Committee devised a method whereby reassignment may be summarily obtained through a procedure to be initiated by the Supreme Court.

It should be observed that this would provide the "bypass mechanism to immediately hear, in its discretion, special types of appeals," as suggested by the delegates. It should be emphasized that this procedure is expected to be exercised only in the rarest instance and when "the case concerns an issue of imperative or of fundamental public importance." That is to say, it is either the immediacy of the required remedy or the magnitude of public importance that will determine the Supreme Court's exercise of this power.

- (g) Appeal from the Intermediate Appellate Court. Every final decision of the Intermediate Appellate Court is subject to further appeal to the Supreme Court, but only by certiorari, which the Supreme Court may, in its discretion, refuse. Upon such refusal, or upon failure of the parties to apply for certiorari within ten days from the issuance of the decision of the Intermediate Appellate Court, that decision becomes final.

The allowance of the Supreme Court to deny certiorari is intended to minimize "double appeals." Your Committee notes that the delegates to the Constitutional Convention did not express the desire that all double appeals should be avoided, but only that they be minimized.

The system of discretionary certiorari will preserve the right to Supreme Court determination to all cases, even those of the simplest factual and legal context. However, such right to appeal is subject in all cases to the right of the Supreme Court to refuse it. Thus, the final arbiter as to whether any case has such social significance as to warrant a "double appeal" will rest with the Supreme Court. In this manner appellate review would be terminated in most instances at the intermediate appellate level.

Moreover, the application for writ of certiorari must state "errors of law or fact" or "inconsistencies in the decision of the Intermediate Appellate Court with that of the Supreme Court, Federal decisions or its own decisions, and the magnitude of such errors or inconsistencies dictating the need for further appeal." It must be observed, that such requirement is directed only to the application for the writ. It is not descriptive of the scope of review determinative of the Supreme Court's decision to grant or deny certiorari. The Supreme Court's power in that regard is intended simply to be discretionary.

- (3) Consideration of case assignment pending appointment of judges. H.B. No. 92, H.D. 2, S.D. 2, C.D. 1, also provides specifically for assignment of cases presently pending before the Supreme Court for decision by the Intermediate Appellate Court.

Such case assignment is intended to allow some measure of immediate relief to the Supreme Court's congested calendar.

More particularly, until appropriate appointment of the Intermediate Appellate judges, all appeals filed on and after the day after the effective date of this bill are subject to review by the Supreme Court conditioned upon consequent assignment to the Intermediate Appellate Court.

Additionally, such Supreme Court assignment of appeals to the Intermediate Appellate Court applies to appeals filed previous to the day after the effective date of this bill; provided that all such cases involving questions of State or Federal constitutional interpretation or involving criminal sentence of life imprisonment without possibility of parole shall be reviewed by the Supreme Court.

In such selection of cases for assignment to the Intermediate Appellate Court, it is expected that the Supreme Court will give appropriate consideration to the criteria for case assignment between those courts as established by this bill. Additionally, such case assignment must be viewed in the light of the basic concern of the delegates to the Constitutional Convention over the need for immediate relief to the present congestion of the Supreme Court caseload.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 92, 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. 92, H.D. 2, S.D. 2, C.D. 1.

Senators O'Connor, Cayetano, Takitani and Carroll
Managers on the part of the Senate

Representatives Yamada, Blair, Honda, Sakamoto, Uechi and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 74 on H.B. No. 1716

The purpose of this bill is to designate the humpback whale as the official marine mammal of the State of Hawaii.

Your Committee finds that Hawaii is the only state privileged to welcome and shelter an entire herd of humpback whales each year as they migrate to their traditional calving grounds off the island of Maui and we alone can provide the opportunity for the scientific world to study these whales on such an intensive scale. Therefore, it would be a most appropriate emblem of this State because of its integral role in the modern history of Hawaii.

Your Committee is in agreement with the intent and purpose of H.D. No. 1716, S.D. 1, but has made a technical nonsubstantive amendment to this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1716, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1716, S.D. 1, C.D. 1.

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

Representatives Yamada, Dods, Garcia, Honda, Lee and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 75 on H.B. No. 38

The purpose of this bill is to implement the provisions of Article X, Section 2, of the Hawaii State Constitution. Those provisions were proposed by the Constitutional Convention of 1978 and ratified by the electorate on November 7, 1978.

Article X, Section 2, relating to the board of education, provides in pertinent part as follows:

1. There shall be a board of education composed of members who shall be elected in a nonpartisan manner by qualified voters, as provided by law, from two at-large school board districts: the first school board district comprised of the island of Oahu and the second school board district comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai, and Niihau.

2. Each at-large school board district shall be divided into departmental school districts, as may be provided by law, with at least one board member residing in each departmental school district.

Accordingly, Article X, Section 2, as amended, requires the Legislature to: (1) fix the number of members on the Board of Education; (2) apportion the number of members between the two at-large districts; (3) establish and designate departmental school districts within the two at-large districts; (4) ensure that at least one board member resides in each departmental school district; and (5) provide for the election of board members in a nonpartisan manner.

Under H.B. No. 38, H.D. 2, S.D. 3, the members of the board of education are to be elected from two at-large school board districts. The first school board district is comprised of the island of Oahu, while the second school board district is comprised of the islands of Maui, Molokai, Kahoolawe, Lanai, Kauai, Niihau and Hawaii.

The board is to be composed of thirteen members, ten of whom will represent the island of Oahu and three of whom will represent the other islands within the State. Your Committee believes that such an apportionment plan is consistent with the principle of "one man, one vote" as first enunciated in Baker v. Carr, 369 U.S. 186 (1961) which requires that voting districts be apportioned to permit equal representation by elected officials. See also, Wesberry v. Saunders, 376 U.S. 1 (1964); Hadley v. Junior College District, 397 U.S. 50 (1969).

Taking into account the population of Oahu as compared to the other islands, the 10-3 ratio as proposed by this bill falls within an acceptable range of deviation from exact mathematical precision following Wesberry v. Saunders, 376 U.S. 1 (1964), and Reynolds v. Sims, 377 U.S. 533 (1964).

"Whatever the means of accomplishment, the overriding objective must be substantial equality of population among various districts so that the vote of any citizen is approximately equal in weight to any other citizen." 377 U.S. at 579.

Furthermore, while a board composed of seventeen members with 13 members from Oahu and 4 from the other islands would result in a smaller deviation, Board of Education testimony on this matter favored a thirteen member board as the larger number was thought to be cumbersome and therefore less efficient than a smaller representative board. Relatedly, the 1978 Constitutional Convention's Standing Committee Report No. 39 expressed "the need for a relatively small board which would be able to act quickly and decisively."

Article X, Section 2 also provides that each at-large school board district shall be divided into departmental school districts and that at least one board member shall reside in each departmental school district. To implement this requirement, H.B. No. 38, H.D. 2, S.D. 3 establishes and designates seven departmental school districts. S.D. 3 also provides that while all candidates seeking election to any of the thirteen seats on the board must run at-large from their respective school board districts, seven of the thirteen board members must respectively be residents of the seven designated departmental school districts.

This additional provision in Article X, Section 2 ensures that not only is each voter equally represented on the board, but also that the individual or local concerns of each community, whether urban or rural or otherwise categorized, will be heard or represented on the board. Such a provision has been found to be constitutionally valid under Dusch v. Davis, 387 U.S. 112 (1967), where the Supreme Court upheld a residency requirement that was not for voting or representation purposes. Here, as in Dusch, each board member is elected at-large and represents the whole at-large district which elected him and not merely the district in which he resides even if the seat the candidate sought was one with a residency requirement. See also, Fortson v. Dorsey, 379 U.S. 433 (1964).

Your Committee has amended the bill in the following major respects:

(1) Section 1(1) of the bill, which amends Section 13-1 of the Hawaii Revised Statutes, in part establishes and designates or describes the two "at-large school board districts" mandated by the Constitution. The designation or description of the at-large school board districts in terms of islands has been amended by adding references to the State representative districts which are to comprise the respective at-large school board districts.

Your Committee believes that this amendment is advisable because the seven departmental districts, into which the two at-large school board districts are divided, are also designated or described in terms of State representative districts.

(2) Provisions in Section 1(1), relating to the district boundaries of the third and fourth departmental school districts, were amended by removing the seventeenth and eighteenth representative districts from the fourth departmental school district (Central Oahu) and transferring these two representative districts to the third departmental school district (Honolulu).

(3) Provisions in Section 1(2), relating to the qualifications for Board of Education members, has been amended by adding references to the appointment of board members so that (1) qualified persons may become members of the board not only by election but through gubernatorial appointment as well, and (2) both appointed as well as elected board members must meet the same statutory qualifications.

(4) Section 1(3), which amends HRS, section 13-3, relating to board of education elections, has been amended by deleting the reference to the nomination of board of education candidates. The reason for the deletion is that board members, per constitutional mandate, must be elected in a nonpartisan manner, and under this bill will be elected at a special election held in conjunction with the general election. Thus, board of education candidates are no longer nominated through a party primary election.

(5) Section 4 of the bill has been amended by repealing HRS, section 12-23, relating to board of education ballots, because that section is contained in the chapter relating to primary elections and was intended to cover primary election ballots for the board.

(6) Provisions in Section 2, relating to vacancies on the board of education, have been amended by adding more detailed provisions to provide that depending on when the vacancy occurs, vacancies may be filled by gubernatorial appointment rather than only by election at the next general election.

An amendment has also been made to specifically provide that with respect to gubernatorial appointments, the appointee's party affiliation, as well as an appointee's party preference or nonpartisanship, will not be considered by the Governor.

(7) Section 7 of the bill, which specifies the effective date of the Act, has been amended by substituting the effective date of January 1, 1980 with an effective date that would make the Act take effect upon its approval, but with the proviso that the amendments to HRS, sections 13-1 and 13-2, shall take effect on November 4, 1980.

Your Committee believes that this proviso is necessary to ensure that any person elected or appointed to any board of education vacancy prior to November 4, 1980 -- which vacancy may occur (e.g., through the death or resignation of a board member) prior to the election of a new board of education in November, 1980 pursuant to the new apportionment/representation plan established by this bill, will be required: (1) to represent the same geographic area or district which was represented by the board member he is replacing (rather than to seek election or appointment under the new apportionment/representation plan), and (2) to possess or meet existing qualifications or eligibility requirements for election or appointment to the board rather than to meet the amended qualifications of HRS, section 13-2, continued in this bill.

An additional proviso has been added to the effective date section of the bill. That proviso reads: "provided further, however, that the four-year term of office specified in section 13-5 shall apply to members of the board of education elected at the general election of November, 1980, and thereafter." This proviso has been added to ensure that board members elected at the general election of November, 1978 will be limited to two-year terms in accordance with Article XVIII, Section 7, of the Hawaii State Constitution relating to the 1978 board of education elections.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 38, H.D. 2, S.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 38, H.D. 2, S.D. 3, C.D. 1.

Senators Campbell, Cayetano, O'Connor, Young and Ajifu
Managers on the part of the Senate

Representatives Lunasco, Say, Segawa, Yamada and Anderson
Managers on the part of the House

Representative Anderson did not sign the report.

Conf. Com. Rep. No. 76 on S.B. No. 1680

The purpose of S.B. No. 1680, S.D. 1, H.D. 1, on which the Committee conferenced was "to revise Chapter 843, Hawaii Revised Statutes, so as to (1) establish a privilege from civil liability for the Crime Commission and its staff for actions done or statements made in the course of their duties; (2) allow the Commission to manage reward money; and (3) enable it to obtain appropriate information from governmental agencies." (House Standing Committee Report No. 946-79).

Your Committee upon further consideration has agreed to the following disposition of the three issues raised by S.B. No. 1680, S.D. 1, H.D. 1.

(1) Immunity. Your Committee concurs with the written opinion dated December 21, 1977, of the Attorney General to then Lieutenant Governor and Chairman of the Crime Commission Nelson Doi.

The opinion states that nonjudicial officers such as the members of the Crime Commission have limited liability protection from defamation, libel or slander suits which covers all those actions except those motivated by malice or not otherwise for a proper purpose. The opinion cites the case of Medeiros v. Kondo, 55 Haw. 499, 522 P.2d 1269 (1974), to demonstrate this protection. Your Committee believes this is appropriate and sufficient protection for the Crime Commission.

As to commission staff members the opinion further states that:

"a qualified privilege generally exists where the publication is fairly made by a person in the discharge of some public or private duty, whether legal or moral. Prosser, The Laws of Torts, 786 (4th ed., 1971). The immunity conferred is not absolute, 'but is conditioned upon publication in a reasonable manner and for a proper purpose.'

* * *

Under the principle of qualified privilege, a staff member would not be liable for publishing a defamatory statement if (1) he/she reasonably acts to discharge some public or private duty; (2) the publication concerns a matter in which he/she has an interest; (3) the recipient of the publication has a corresponding interest. Where, however, the privilege is abused, the privilege would be forfeited, thereby subjecting the staff member to liability."

Your Committee is in agreement with the statement of the present law of qualified privilege and its application to the Hawaii Crime Commission and its staff as provided in the Attorney General's Opinion. Therefore, the Committee has not included a provision on civil immunity in S.B. No. 1680, S.D. 1, H.D. 1, C.D. 1.

(2) Reward Money. The Committee has retained the new provision allowing the commission to receive and manage reward money. However, the new provision has been removed from subsection 843-5(1) which deals with educational programs and been made a separate subsection.

(3) Communications. The Committee expects thorough and fluid communication and cooperation among all pertinent governmental agencies in the war against crime. For any agency to do less would constitute a shameful dereliction of duty. It is obvious that the crime commission can only be as successful as the information it obtains.

Your Committee expects that all of the governmental agencies will work harmoniously across inter-governmental boundaries in the war against crime. To accomplish these purposes the law presently contains subsection 843-6(d):

"Agencies of the state and county governments shall cooperate with the commission to the extent necessary for the commission to perform its duties."

The Committee finds this provision sufficiently broad to cover information gathering and sharing. It has therefore, not included an additional provision on the subject to avoid confusion.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1680, 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. 1680, S.D. 1, H.D. 1, C.D. 1.

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

Senator Ushijima did not sign the report.

Representatives Yamada, Baker, Blair, Dods, Honda and Medeiros
Managers on the part of the House

Representative Baker did not sign the report.

Conf. Com. Rep. No. 77 on H.B. No. 890 (Majority)

The purpose of this bill is to implement Article XII, Sections 4, 5, and 6 of the Constitution of the State of Hawaii as amended by the Hawaii Constitutional Convention of 1978, ratified by the electorate, and pertaining to Hawaiian Affairs. The pertinent language of Article XII reads as follows:

ARTICLE XII

HAWAIIAN AFFAIRS

PUBLIC TRUST

Section 4. The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7, of the State Constitution, excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended, shall be held by the State as a public trust for native Hawaiians and the general public.

OFFICE OF HAWAIIAN AFFAIRS: ESTABLISHMENT OF BOARD OF TRUSTEES

Section 5. There is hereby established an Office of Hawaiian Affairs. The Office of Hawaiian Affairs shall hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for native Hawaiians and Hawaiians. There shall be a board of trustees for the Office of Hawaiian Affairs elected by qualified voters who are Hawaiians, as provided by law. The board members shall be Hawaiians. There shall be not less than nine members of the board of trustees; provided that each of the following Islands have one representative: Oahu, Kauai, Maui, Molokai and Hawaii. The board shall select a chairperson from its members.

POWERS OF BOARD OF TRUSTEES

Section 6. The board of trustees of the Office of Hawaiian Affairs shall exercise power as provided by law: to manage and administer the proceeds from the sale or other disposition of the lands, natural resources, minerals and income derived from whatever sources for native Hawaiians and Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in Section 4 of this article for native Hawaiians; to formulate policy relating to affairs of native Hawaiians and Hawaiians; and to exercise control over real and personal property set aside by state, federal or private sources and transferred to the board for native Hawaiians and Hawaiians. The board shall have the power to exercise control over the Office of Hawaiian Affairs through its executive officer, the administrator of the Office of Hawaiian Affairs, who shall be appointed by the board.

Additionally, language in Article XVIII, Section 8, provides for implementation of the amendments to Article XII in Sections 5 and 6 on or before the first general election following ratification of the amendments to Article XII; thus implementation of the amendments must be completed before the general election in 1980.

Article XII, Section 4, is a key section to understanding the Constitutional mandate imposed upon the legislature. This section establishes that the lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7, of the State Constitution (excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended) shall be held by the State as a public trust for native Hawaiians and the general public.

The Admission Act, among other things, granted to the State of Hawaii, effective upon its admission to the Union, the United States' title to all of the public lands granted at the time of the Act or later conveyed to the State, and provided that such lands be held as a public trust. Congress named five purposes for which the public trust was to be held by the State. They are:

- (1) Support of the public schools and other public educational institutions;

- (2) The betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended;
- (3) The development of farm and home ownership on as widespread a basis as possible;
- (4) The making of public improvements; and
- (5) The provision of lands for public use.

Section 5(f) of the Admission Act further stated that: "such lands, proceeds, and income shall be managed and disposed of for one or more of the foregoing purposes in such manner as the constitution and laws of said State may provide.."

There are several ways of interpreting the "public trust" required by the Admission Act. The first is that such public trust is fulfilled with respect to the betterment of conditions of native Hawaiians" by virtue of the "available lands" of the Hawaiian Homes Commission Act being held and used in the interest of "native Hawaiians" as there provided. By this interpretation, all of the income from public lands transferred to Hawaii other than "available lands" could be utilized without a portion thereof being used specifically for native Hawaiians.

Another interpretation is that part of the income from public lands other than "available lands" was intended for the "betterment of the conditions of native Hawaiians" in addition to the "available lands" under the Hawaiian Homes Commission Act. By this interpretation, native Hawaiians have not received direct beneficial interest from the public lands (other than "available lands") as had been intended by the Admission Act.

Another interpretation is that the five purposes were satisfied by the moneys going to the Department of Education, as native Hawaiians, as well as the general public, benefit by education.

The State's practice prior to the constitutional amendment of 1978 had been to channel the benefits of the public land trust, by and large, to the Department of Education. The Constitutional Convention adopted a more restrictive view of the Admission Act public trust in Section 4 of Article XII by specifying that the public trust lands be held by the State as a public trust for native Hawaiians and the general public.

The Admission Act requires that the lands and proceeds derived therefrom "shall be held by such State as a public trust." The requirement that the ultimate accountability for the trust must be to all the people of the State -- albeit that the beneficiaries of a portion of that trust res may consist of only one segment or category from among all of the varied peoples of Hawaii -- is obvious by the language imposing the trust.

Your Committee is aware that the efforts of the Constitutional Convention and certainly the will of the voters at the General Election of 1978 was that these amendments addressed to Hawaiian Affairs are ultimately tied to the Hope of all Hawaii -- that all persons shall be "equal in their inherent and inalienable rights." This is a reflection of the all essential "Rights of Man."

Accordingly, it is the intent of your Committee that by the creation of the Office of Hawaiian Affairs, equal participation of Hawaiians in the ultimate homogeneous society that we seek to achieve for Hawaii, will become eventual reality. The hope of this bill lies in the vehicle it presents to the long neglected Hawaiian people by way of imaginative affirmative action programs to better their condition.

Your Committee upon further consideration has made the following amendments to H.B. No. 890, H.D. 1, S.D. 3:

(1) Section -2, Definitions. The definitions of "native Hawaiian" and "Hawaiian" are changed to substitute "peoples" for "races". Your Committee wishes to stress that this change is non-substantive, and that "peoples" does mean "races". A new definition has been added to the section, "beneficiary of the public trust entrusted upon the office", to clarify other sections of the bill.

(2) Section -3, Purposes of the Office. The words "appropriated biennially" have been deleted from page 3, line 14, and "funded" has been substituted. Your Committee feels that further consideration should be given to any funding mechanism for the office, and that it is unwise at this time to commit to any one method.

(3) Paragraph (2) of Section -3 has been amended to place parentheses around references to "available lands" of the Hawaiian Homes Commission, to emphasize that the Hawaiian Homes lands are under a jurisdiction separate from this office.

(4) Section -5, Board of trustees; powers and duties. The board's powers have been broadened to include the power to invest, as well as to manage and administer proceeds from the sale or other disposition of lands, natural resources, minerals, and income derived from whatever sources for native Hawaiians and Hawaiians.

(5) Section -6, General duties of the board, has been rewritten for purposes of clarity.

(6) Sections 7, 8, 9, 10, and 11 of S.D. 3 have been deleted from this SECTION of the bill, and placed in a later SECTION 8, which establishes a new chapter under Title 2, Elections, to provide for the election of the board of trustees. A reference to this change has been placed in Section -7 of Conference Draft 1.

(7) Section -12, Organization; quorum; meeting. This section has been renumbered as section -8. Additionally, the section has been amended by providing that the terms of officers of the board shall be two years, and that officers shall be elected by the board at its first meeting after an election. A new sentence has been added to provide that the board shall meet at least once annually on each of the islands of Hawaii, Maui, Molokai, Lanai, Kauai, and Oahu.

(8) Section -13, Compensation; expense. This section has been renumbered as section -9, and minor changes made for purposes of clarity.

(9) Section -14, Administrator; appointment, tenure, removal. This section has been renumbered as section -10. Additionally, the section has been amended by providing that the administrator shall serve for a term to be determined by the board, and shall serve without regard to the provisions of chapters 76 and 77.

(10) Section -15, Salary of the administrator, has been renumbered as section -11. The Administrator's salary has been increased from \$20,000 a year to \$30,000 a year. Your Committee feels that this salary will enable the office to attract qualified applicants, for the position.

(11) Section -16, Assistant; staff. This section has been renumbered as section -12, and two amendments have been made. The first provides that officers and employees shall serve at the pleasure of the administrator, rather than that of the board, as S.D. 3 provided. The second change is that a new sentence has been added to provide that these officers and employees are to be included in any benefit plan generally applicable to officers and employees of the State.

(12) Section -17, Appropriations; accounts; reports, has been renumbered as section -13.

(13) Section -18, Budget, auditing, has been renumbered as section -14. Additionally, the section has been amended to provide that the board is to submit a proposed budget annually to the legislature, and that the Office of Hawaiian Affairs shall be subject to annual government audit.

(14) Section -19, Annual report. Aside from renumbering the section as section -15, no other amendments were made.

(15) Section -20, Suits. This section has been renumbered as section -16. Additionally, a new sentence has been added to subsection (a), which reads as follows: "The State shall not be liable for any acts or omissions of the office, its officers, employees, and the members of the board of trustees, except as provided under subsection (b)." The purpose of this amendment is to clarify the liability of the State. Other changes have been made for purposes of clarity.

(16) SECTION 3. The definition of "native Hawaiian" has been deleted from the definitions to be added to Section 11-1, Hawaii Revised Statutes, and the word "peoples" has been substituted for "races" in the definition of "Hawaiian". Again, your Committee wishes to emphasize that this substitution is merely technical, and that "peoples" does mean "races". For purposes of voting, "Hawaiian" is a definition that includes "native Hawaiian".

(17) SECTION 4. The title of Section 11-15 has been amended to reflect existing statutory language. Additionally, subsection (b) has been deleted and a new subsection (b) added. The new subsection deletes the provision that a Hawaiian desiring to vote or to be a candidate for the board must be a qualified voter of the State and a registered voter of the county in which he resides.

(18) SECTION 6. The amendment to this section provides that nomination papers for candidates for members of the board of trustees of the Office of Hawaiian Affairs are to be signed by not less than twenty-five persons registered to vote as prescribed under

section 11-15 (b).

(19) SECTION 8. This Section of the bill has been changed to Section -9 of Conference Draft 1. In its place, a new chapter is to be added to Title 2 of the Hawaii Revised Statutes. This new chapter includes parts of Section -7, and Sections -8, -9, -10, and -11 from H.B. No. 890, H.D. 1, S.D. 3. Section -1 (formerly Section -7) has been amended to provide for the number of island seats provided by the Constitution; that is, Hawaii, Maui, Molokai, Kauai, and Oahu. Lanai and Niihau have been omitted. Your Committee notes that the Constitution has made no provision for the islands of Lanai and Niihau, and that, in a sense, residents of these islands have been disenfranchised. However, problems may well arise when, for example, a representative from Lanai (if Lanai and Maui were counted together) wins more votes than a resident of Maui. If the seat from Maui is designated a Maui-Lanai seat, the practical implications are to deny that Maui resident his constitutionally mandated seat. Your Committee notes that there are four at-large seats, and that residents of the islands of Niihau and Lanai may run for those seats.

(20) Section -2, Qualifications of board members. There has been an addition to the first sentence of this section, stating that "where residency on a particular island is a requirement, a resident on the island for which seat he is seeking election or appointment." This amendment serves to implement the requirement that at least one member of the board reside on each of the islands of Hawaii, Maui, Molokai, Kauai, and Oahu.

(21) Section -3, Qualification of voters; registration. A new subsection (b) has been added, and the other subsections renumbered. The new subsection sets forth eligibility requirements for persons registering for the election of board members. To be eligible, a person must be Hawaiian, must have attained the age of eighteen years or will have attained such age within one year of the date of the next election of board members, and must be otherwise qualified to register to vote in the State.

(22) Section -4, Election of board members. This section has been amended to provide that members of the board of trustees are to be elected in a special, rather than a non-partisan, election held in conjunction with the general election in every even numbered year, rather than every four years. The subsection regarding nomination papers has been amended to provide that a candidate desiring to file for election shall be able to specify either that he is seeking a seat requiring residency on a particular island or a seat without a residency requirement. The subsection regarding the ballot format has been amended to provide that the names of candidates seeking seats requiring residency on a particular island shall be grouped by island of residency. The provision for a double count of the ballot which was included in S.D. 3 has been deleted, as it is no longer necessary when the ballot is printed as provided in C.D. 1.

(23) Section -5, Term of office; vacancies. This section provides for staggered terms for board members. The four board members elected with the highest number of votes shall serve four years and the remaining five members elected shall serve two years. This provision applies only to board members elected in 1980. In succeeding elections, members shall be elected for four year terms. By staggering the terms, your Committee feels that there will be some continuity on the board, and by having the five to four elections, your Committee feels that the island of Oahu, with its large population of Hawaiians, will not be able to dominate the board to the detriment of the neighbor islands.

Vacancies are to be filled in accordance with a new section added to chapter 17, Hawaii Revised Statutes.

(24) SECTION 9. This Section was Section 8 in H.B. No. 890, H.D. 1, S.D. 3. It has been amended to change the provisions for filling vacancies in the membership of the board of trustees. There are two classifications of vacancies: those which involve terms which end at the next succeeding election, and those which involve terms which do not end at the next succeeding general election. In the first instance, your Committee has amended the bill to provide that a vacancy is to be filled by a two-thirds vote of the remaining members of the board. If the board fails to fill the vacancy within 60 days after it occurs, the governor is to fill the vacancy within 90 days after it occurs. The provision regarding the governor has been added by your Committee to prevent possible deadlocks in the filling of vacancies.

In the second instance, there are also two sub-categories. The first provides for vacancies occurring not later than on the tenth day prior to the next succeeding general election. Here, either the board or the governor shall make a temporary appointment in the manner of subsection (a) and the person appointed shall serve until the election of a board member at the next general election. In the second, where the vacancy occurs after the tenth day prior to the next succeeding general election, the board or the governor is to make an appointment to fill the vacancy in the manner prescribed under subsection (a) and

the person appointed shall serve for the duration of the unexpired term.

(25) SECTION 10. The appropriations section has been amended to provide that \$125,000, rather than \$100,000, is to be expended in the fiscal year 1980-81 for the purposes of this Act by the office of Hawaiian affairs. Your Committee researched the amounts expended by the Board of Regents of the University of Hawaii to determine this figure.

Additionally, appropriations for election expenses have been amended as follows: \$105,000, or so much thereof as may be necessary, is to be expended in fiscal year 1979-80, and \$65,000, or so much thereof as may be necessary, is to be expended in fiscal year 1980-81. An amendment was also made to provide that these sums are to be expended by the office of the lieutenant governor to conduct the election of board members in 1980, and to reimburse the counties for the work of the clerks under section 8 of this Act. S.D. 3 provided that the counties were to submit requests for reimbursement from the State to the state director of finance, and that the legislature was to appropriate moneys for that purpose from time to time.

Additional technical, non-substantive amendments have been made throughout the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 890, 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. 890, H.D. 1, S.D. 3, C.D. 1.

Senators Young, Carpenter, Cayetano, O'Connor, Yim and Soares
Managers on the part of the Senate

Representatives Kawakami, Fukunaga, Holt, Stanley, D. Yamada and Anderson
Managers on the part of the House
Representative Fukunaga did not concur.

Conf. Com. Rep. No. 78 on H.B. No. 1642

The purpose of this bill is to amend Chapter 205A in order to update and refine the State's Coastal Zone Management Law by acknowledging the coastal zone management area currently included in the Hawaii CZM Program document and by clarifying the procedures relating to special management area controls.

Present law is unclear regarding the final coastal zone management area and provides for certain cumbersome procedures in the implementation of Part II dealing with special management area permits. Your Committee is in agreement with the testimony received that the clarification and resolution of the CZM boundary issue is essential and that the simplification of SMA permit procedures is desirable. In keeping with the above, your Committee has made the following substantive amendments:

The definition of "coastal zone management area" in Section 205A-1(2) has been expanded to include State waters to the limit of the State's jurisdiction, the special management areas as amended, and any other area which the lead agency may designate for the purposes of administering the coastal zone management program. The amendment effectively separates the boundaries of the SMA area from the boundaries of the CZM area and allows the Lead Agency to designate the interim administrative area presently contained in the Hawaii CZM Program document as the coastal zone management area.

The definition of "coastal zone management program" in Section 205A-1(3) has been amended to acknowledge the Hawaii CZM Program approved by the U.S. Department of Commerce in September 1979.

The Lead Agency section, 205A-3, has been amended to make the submission of guidelines an on-going function by the Lead Agency as necessary to further specify and clarify the objectives and policies of the Chapter.

The cause-of-action, Section 205A-6, has been amended to limit coverage regarding agency compliance with the objectives and policies to the special management area and to the waters to the limit of the State's jurisdiction.

Section 205A-33, paragraph B, lists those activities which are exempted from restrictions on development. Your Committee feels that the construction of roads and highways (ii) and the installation of underground utility lines (v) constitute actions which could have significant impact on the coastal zone and which should, therefore, be deleted from the exemption list. Your Committee has also deleted reference to agency action appearing on an environmental statement exemption list (iv), inasmuch as changes could be made to such lists inappropriate to the Hawaii CZM Program. Aquaculture and mariculture

are added to (ix) because of their importance in the State's economy. To protect the coastal zone from possible abuses regarding unwarranted interpretations regarding the extent of this exclusion, however, your Committee has specifically mandated that such exclusions be reviewed by the authority in accordance with paragraph "C", which allows the authority to disallow an exclusion if it is or may become part of a larger project, the cumulative impact of which may have a significant environmental or ecological effect on the SMA.

Section 205A-23 has been amended to impose a deadline of December 31, 1979 for amending SMA boundaries in furtherance of the objectives and policies of the chapter. It also provides for Lead Agency review and determination of any contractions of existing SMA boundaries as to compliance with the objectives and policies of the chapter and any guidelines enacted by the Legislature. Finally, it permits each county to adjust its SMA boundaries over time so long as any such adjustments are within the coastal zone management area.

Your Committee believes that a six month extension to settle the location of the SMA boundaries in compliance with the objectives and policies of the chapter is reasonable. Your Committee's decision to limit the Lead Agency's review and approval of SMA boundary amendments to contractions only is based upon the assumption that any contraction of an SMA boundary could threaten the efficacy of this most important intensive management tool and should, therefore, be subject to lead agency scrutiny and approval. Expansion of the existing SMA boundaries, on the other hand, would necessarily be consistent or in compliance with the statute's objectives and policies, since it imposes a more stringent management regime in an area covered by the objectives and policies and the network of existing State-County laws.

Section 205A-29 insures adequate notice of Special Management Permit hearings to concerned persons. Your Committee feels that to assure that there is ample opportunity for the public to participate in the permit process, notification of permit applications should be included.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1642, 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. 1642, H.D. 1, S.D. 1, C.D. 1.

Senators Hara, Abercrombie, Toyofuku and Yee
Managers on the part of the Senate

Representatives Larsen, Kawakami, Sakamoto, Toguchi and Anderson
Managers on the part of the House
Representative Toguchi did not sign the report.

Conf. Com. Rep. No. 79 on H.B. No. 1671

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to Article II, sections 5 and 6 of the Hawaii State Constitution effected by the Constitutional Convention of 1978 and ratified by the voters on November 7, 1978. The pertinent language of Article II to which such conformance is addressed by this bill reads as follows:

"CAMPAIGN FUND, SPENDING LIMIT

Section 5. The legislature shall establish a campaign fund to be used for partial public financing of campaigns for public offices of the State and its political subdivisions, as provided by law. The legislature shall provide a limit on the campaign spending of candidates.

CAMPAIGN CONTRIBUTIONS LIMITS

Section 6. Limitations on campaign contributions to any political candidate, or authorized political campaign organization for such candidate, for any elective office within the State shall be provided by law."

1. Background Considerations. Preliminarily, a brief overview of the history of legislation on the subject matter of campaign spending, contribution and disclosure is in order. First of all, comprehensive legislation over campaign spending and disclosure was enacted by the 1973 Legislature by Act 185, SLH 1973, which placed expenditure limits differentiated by schedule among different elective offices based on number of voters that must be reached; and which required disclosure on spending and contribution, but which did not place limits on contribution.

Second, the Supreme Court of the United States issued its decision in Buckley, et al. v. Valeo, et al., 424 U.S. 1 (1976) by which it ruled that the spending limits imposed by

the federal law were invalid, but it validated the contribution and disclosure requirements of that law.

Third, the 1977 legislature amended the law to delete the spending limits by Act 127, SLH 1977, thereby conforming to Buckley.

Finally, the Constitutional Convention of 1978 amended Article II of the Hawaii State Constitution requiring (1) the establishment of partial public financing, (2) the provision of a limit on campaign spending of candidates, and (3) enactment of limitations on campaign contributions.

Crucial to your Committee's initial consideration of this bill was the apparent conflict between the proscription in Buckley against expenditure limits and the Constitutional Amendment's mandate to establish expenditure limits. Accordingly, we now address ourselves to an analysis of this problem.

We note for informational purposes only that the delegates to the Constitutional Convention expressed great concern in the depletion and damage of public confidence in our political process by its domination by money. It indicated its concern that the high cost of running for office generates pressures to raise inordinate sums and that such pressure has caused widespread public belief that public officials once elected cannot have "the flexibility to act in a manner detrimental to the interest of their powerful backers." It indicated its concern that high cost of campaigns also effectively discourages individuals from participating as candidates because it engenders the belief that "the political process is the exclusive domain of the rich."

The delegates summarized their concern most eloquently with the statement, "representative democracy works best when people have trust in the process and in their representatives, and their representatives are free to inform themselves intelligently and vote according to their perception of the public interest rather than by their need to gather funds for the campaign."

Your Committee echoes that concern, and would state emphatically that genuine concern for the future of the elective process in Hawaii requires personal commitment to de-escalation in campaign expenditure levels. We would accordingly urge the voters to evaluate the merits of future candidates for political office by their respective degrees of devotion to that commitment.

The delegates to the Constitutional Convention believed in the prospect of Constitutional litigation. Your Committee however, feels that a more responsible and, definitely less costly, avenue would be first to exhaust methods that would not be vulnerable to Constitutional challenge. In that posture, your Committee has fashioned at the core of its legislative strategy, the adoption of voluntary public financing of political campaigns.

2. Structural Changes to Present Law. In keeping with the mandate of Article II, Sections 5 and 6 of the Hawaii Constitution, this bill is comprised of three major sections: contribution limits, expenditure limits, and partial public financing of campaigns. Briefly, these provisions under this bill are as follows:

A. Contribution Limits.

(1) Campaign contributions from a person have been limited to \$2,000 for a primary, special primary, or general election.

(2) Campaign contributions from political parties have been limited to the following percentages of the expenditure limit for each elective office:

20% for the offices of governor, lieutenant governor and mayor;

30% for the offices of state senator and county council member; and

40% for the offices of state representative and the board of education.

(3) A candidate and his immediate family may not contribute in the aggregate more than \$50,000 in any election year to the candidate's campaign.

B. Expenditure Limits.

(1) Voluntary expenditure limits have been set for each statewide and county office based on the total number of registered voters for the last preceding general election for a particular race multiplied by the following amounts for a primary, special primary

and general election:

for the office of governor -- 1 dollar and 25 cents;

for the office of lieutenant governor -- 70 cents;

for the office of mayor -- 1 dollar;

for the offices of state senator, state representative, county council member, and prosecuting attorney -- 70 cents; and

for the office of the board of education and all other offices -- 10 cents.

(2) As a measure to offset the inflation rate, an increase of five percent per year from 1979 and every year thereafter will be added to the base amounts as set forth above.

C. Public Funding.

(1) A candidate for governor, lieutenant governor, or mayor will be eligible to receive up to twenty per cent of the expenditure limit set for his respective office. Such candidate must, however, reach a qualifying sum of private contributions. After such qualifying sum is reached, the candidate will be allowed public funding, dollar for dollar, until the ten per cent maximum has been received by him in the primary, and a like dollar-for-dollar matching procedure is imposed for the other ten per cent to be allowed him in the general election.

(2) In all other races, H.B. No. 1671, C.D. 1, tentatively allows \$50 in the primary and \$50 in the general election. It should be understood that this nominal partial public financing is intended only as a stop-gap measure, with more substantial partial funding expected to be provided when in the course of subsequent legislative sessions, more concrete financial expectations can be achieved by the tax "check-off" procedure.

(3) All eligible candidates for a primary, special primary, or general election shall be entitled to partial public funds from the Hawaii election campaign fund. The fund shall be generated primarily by an optional tax check-off of \$2 for each individual with a state tax liability of \$2 or more in any tax year, and an appropriation from general fund revenues if the amount collected by the voluntary check-off is insufficient to partially finance all races. All fines collected pursuant to violations of the campaign spending law and all public moneys returned shall also be deposited in the fund.

3. Spending Limit. Your Committee is aware of the severe impact of Buckley with regard to spending limits. We are aware that many are demoralized by the notion that Buckley will permit absolutely no limitation to spending, and that by such construction, the entire nation must, in the name of free speech, allow an eventual and total commercialization of our political process. We do not subscribe to such pessimism, and believe that as with everything else campaign spending must admit of limitations that reflect responsible respect for the rights of others. However, we take, by this bill, the limited measure of imposing spending limits tied to voluntary acceptance of public financing.

Your Committee has labored many hours over the spending limits concerned particularly that such limits should allow abundance of opportunity to communicate fettered only in reasonable protection of public confidence. In our deliberations we considered, among other things:

- (1) The nature and make-up of the respective voting population;
- (2) Information from past elections;
- (3) Cost data of the various media of communication and modes of campaigning;
- (4) The probable effect of the level of expenditures in obtaining the willingness of individuals to lend themselves to candidacy;
- (5) The probable effect in maintaining a level of public confidence in our political process necessary to retain a believable democracy; and
- (6) The preservation of each candidate's full and reasonable exercise of his right of expression, reflecting abundance by way of allowing a generous quantity of ideas, and the size of the audience to be reached in each voting district.

Upon such labor, your Committee specifically finds that each of the respective spending

limits would be in reasonable balance for the election of 1980 so as to afford protection to public confidence without placing undue burden on each candidate's right of free and adequate expression. Additionally, we have allowed a five per cent annual increase over the limit so provided so that such limits should in actuality be greater than our projections in 1980. We have done this so that any error in our projection should fall toward allowing a more generous limit than otherwise, and to offset the rate of inflation each year.

Our review of the spending pattern for the election years commencing 1974 reveals that the candidates in 1974 were able to readily comply with the spending limits established by the 1973 legislation, and that no complaint was made under that law by any candidate that he had been in any way burdened in his right of expression.

Such review also shows that for all offices other than governor and mayor, the spending pattern of the candidates had by and large closely reflected the 1973 limitation figures in the elections of 1976 and 1978. If the gubernatorial and mayoral races veered from the norm, it is precisely in these races that public confidence has suffered grave demoralization because "money" has obtained apparent reign over our democratic process.

4. Contribution Limits. The United States Supreme Court in Buckley found the \$1,000 contribution limitation upon individuals and groups to candidates and authorized campaign committees imposed by the federal law to be valid. The \$1,000 contribution limitation was found valid because it served the purpose of limiting "the actuality and appearance of corruption resulting from large individual financial contributions." The Court also noted very gravely that "[t]o the extent that large contributions are given to secure a political quid pro quo from current and potential office holders, the integrity of our system of representative democracy is undermined. Although the scope of such pernicious practices can never be reliably ascertained, the deeply disturbing examples surfacing after the 1972 election demonstrate that the problem is not an illusory one."

Your Committee has deliberated upon the contribution limits along lines of analysis similar to that followed in our establishment of the spending limit, with the additional concern that these contribution limits should prevent corruption while at the same time allowing candidates reasonably adequate exercise of political expression.

We have also reviewed contribution limits in two other respects. First is the concern that political parties, whose raison d'etre is the election of party candidates should be allowed to contribute to candidates of its own affiliation in excess of the individual limits. In this regard, we heed the need for healthy party affiliation if new ideas and candidates are to be encouraged to participate in our political process. H.B. No. 1671, C.D. 1, will allow a political party to contribute up to given percentages of candidates' respective spending limits.

Second, your Committee has also considered that contributions made by the candidate himself and immediate family members of a candidate should also be regulated. We have imposed an aggregate limit of \$50,000.

5. Disclosure Requirements. Buckley acknowledged that "there are governmental interests sufficiently important to outweigh the possibility of the infringement (of First Amendment rights)" in campaign reporting and disclosure requirements because the "free functioning of our national institutions is involved."

Sufficient magnitude of governmental interest was involved in the reporting and disclosure requirements of the federal law in Buckley because of (1) its informational value, with the "sources of a candidate's financial support" alerting the voters "to the interests to which the candidate is most likely to be responsive," (2) its deterrence of corruption "by exposing large contributions and expenditures to the light of publicity", and (3) its value as "an essential means of gathering data necessary to detect violations..."

In that regard, H.B. No. 1671, C.D. 1 provides for comprehensive disclosure and reporting requirements and empowers the commission with audit and subpoena responsibilities in order that public scrutiny and enforcement of spending and contribution limits are adequately enhanced.

6. Disclosure Requirements and Ballot Issues. The attention of your Committee has been brought to page 6 of Attorney General's Opinion No. 76-2 which states:

"We are of the opinion, however, that (disclosure and reporting) provision cannot be applied to committees not controlled by a candidate and which merely support a ballot issue." (Parentheses added.)

Your Committee has reviewed Buckley in this regard and is of a different interpretation.

We are mindful of the strict test applied by the courts in determining the validity of governmentally compelled disclosure requirements. We are also mindful that in Buckley, the U.S. Supreme Court narrowly construed the operation of the federal spending and contribution disclosure requirements on individuals and groups that are not candidates or political committees, and said that the statutory language in that regard governed only "contributions earmarked for political purposes" and expenditure "for communications that expressly advocate the election or defeat of a clearly identified candidate."

However, nowhere in that decision did the U.S. Supreme Court specifically prohibit contribution disclosure requirements imposed upon ballot issues. We think that to construe Buckley as prohibiting such requirements constitutes overbreadth in the interpretation of that decision.

The reason for our view is that the U.S. Supreme Court validated disclosure requirements in Buckley as bearing "sufficient relationship to a substantial governmental interest" because such requirements served "informational interest" and imposed "a reasonable and minimally restrictive method of furthering First Amendment values by opening the basic processes of our federal election system to public view." 424 U.S. 81-83.

We deem it similarly important to bring information of contributory support of ballot issues in our election system to public view so that the electorate may have full opportunity to exercise its right to know. Certainly, where particular ballot issues may be advantageous to specific private interest groups, the electorate must be able to exercise its right of franchise with the full opportunity to be informed of the extent of financial support being heaped in favor, or in opposition, of such ballot issues. We think that the public's right to be properly informed is a substantial governmental interest and reasonable requirements for disclosure in that regard are not prohibited as impermissible violations of the First Amendment by the Buckley decision.

Accordingly, we have retained the disclosure requirements pertaining to ballot issues in the present law.

7. Enforcement. H.B. No. 1671, C.D. 1, provides a penalty provision which makes violation of the provisions punishable as a petty misdemeanor in the case of individuals, and by fine not to exceed \$1,000 in the case of corporations, organizations, associations and labor unions.

In conjunction with the penalty provision, any person is empowered to "sue for injunctive relief to compel compliance..."

Also, the penalty provision does not exclude prosecution under appropriate provisions of the Hawaii Penal Code. For instance, if a candidate misuses public funds, he would also be subject to prosecution under section 708-874 governing "misapplication of entrusted property."

8. Methods of Obtaining Voluntary Compliance. H.B. No. 1671, C.D. 1, also provides four methods of obtaining compliance. The first is the differentiated filing fee, whereby the candidate who agrees to abide by the spending limit is afforded a discounted filing fee.

The second is the process of income tax deduction whereby a contribution is allowed to take a maximum of \$500 as a deduction from his income tax. It should be observed that the \$500 is addressed as an aggregate of the contributor's total contributions and only \$100 contributed to each candidate is deductible.

Most importantly, the tax deduction is available only when the contribution is made to a candidate who has agreed to abide by the spending limit.

The third method of obtaining compliance is entrusted to the commission by way of bringing public notice to (1) a candidate's failure to file an affidavit agreeing to voluntarily limit his expenditures, (2) his exceeding the spending limit, (3) his failure to file a report, and (4) other flagrant violations of the campaign spending law.

To provide protection against abuse of the public notice function, the commission is required to act reasonably in bringing fair public notice to the incident or violation involved.

The fourth and last method of obtaining voluntary compliance is the availability of partial public funding to those candidates who agree to comply as previously discussed.

9. Severability. H.B. No. 1671, C.D. 1, finally contains a severability clause, the purpose of which is to protect against invalidation of the provisions of the bill in their entirety should one or several separate provisions be ruled invalid.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1671, 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. 1671, H.D. 1, S.D. 2, C.D. 1.

Senators O'Connor, Cayetano, Kuroda, Mizuguchi, George and Saiki
Managers on the part of the Senate
Senator Cayetano did not sign the report.

Representatives D. Yamada, Aki, Baker, Honda, Shito and Medeiros
Managers on the part of the House
Representatives Aki and Baker did not sign the report.

STANDING COMMITTEE REPORTS

SCRep. 1 Legislative Management

Informing the Senate that S.C.R. No. 1, S.R. Nos. 1 to 13, S.B. Nos. 1 to 241, Gov. Msg. Nos. 1 to 37, Dept. Com. Nos. 1 to 5 and Misc. Com. Nos. 1 to 3 have printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 2 Legislative Management

Informing the Senate that S.C.R. Nos. 2 to 7, S.R. Nos. 14 to 69, S.B. Nos. 242 to 287 and Gov. Msg. Nos. 38 to 40 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 3 Legislative Management

Informing the Senate that S.R. Nos. 70 to 73, S.B. Nos. 288 to 338 and Gov. Msg. Nos. 41 to 55 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 4 Legislative Management

Informing the Senate that S.C.R. No. 8, S.R. Nos. 74 to 76 and S.B. Nos. 339 to 375 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 5 Legislative Management

Informing the Senate that S.C.R. Nos. 9 and 10, S.R. Nos. 77 to 83 and S.B. Nos. 376 to 441 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 6 Agriculture on S.C.R. No. 8

The purpose of this concurrent resolution is to request the President of the United States and the Special Representative for Trade Negotiations not to reduce the tariff on fresh and processed pineapple products.

The Tokyo Round of Multilateral Trade Negotiations is now being held in Geneva and Hawaii's congressional delegation has been informed that Ambassador Robert S. Strauss, the United States Special Representative for Trade Negotiations is considering the reduction of the import duty on fresh and processed pineapple products from three per cent to one per cent.

Since the world market for pineapple is approaching an oversupply situation, such a tariff reduction would give a competitive advantage to foreign pineapple in the American market and Hawaii's pineapple industry would suffer. The industry is barely at a break-even point and any set back would be disastrous. There is no question that there would also be a substantial impact on the State's economic base as well.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 8 and recommends its adoption.

Signed by all members of the Committee except Senators Hara and Yim.

SCRep. 7 Agriculture on S.R. No. 76

The purpose of this resolution is to request the President of the United States and the Special Representative for Trade Negotiations not to reduce the tariff on fresh and processed pineapple products.

The Tokyo Round of Multilateral Trade Negotiations is now being held in Geneva and Hawaii's congressional delegation has been informed that Ambassador Robert S. Strauss,

the United States Special Representative for Trade Negotiations is considering the reduction of the import duty on fresh and processed pineapple products from three per cent to one per cent.

Since the world market for pineapple is approaching an oversupply situation, such a tariff reduction would give a competitive advantage to foreign pineapple in the American market and Hawaii's pineapple industry would suffer. The industry is barely at a break-even point and any set back would be disastrous. There is no question that there would also be a substantial impact on the State's economic base as well.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 76 and recommends its adoption.

Signed by all members of the Committee except Senators Hara and Yim.

SCRep. 8 Legislative Management

Informing the Senate that S.C.R. Nos. 11 to 13, S.R. Nos. 84 to 88, S.B. Nos. 442 to 452 and Stand. Com. Rep. Nos. 5 to 7 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 9 Legislative Management

Informing the Senate that S.C.R. No. 14, S.R. No. 89 and S.B. Nos. 453 and 484 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 10 Legislative Management

Informing the Senate that S.C.R. No. 15, S.R. Nos. 90 to 93 and S.B. Nos. 485 to 530 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 11 Legislative Management

Informing the Senate that S.C.R. Nos. 16 to 20, S.R. Nos. 94 to 101 and S.B. Nos. 531 to 574 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 12 Legislative Management

Informing the Senate S.C.R. No. 21, S.R. Nos. 102 to 106 and S.B. Nos. 575 to 649 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 13 Ways and Means on H.B. No. 11

The purpose of this bill is to appropriate funds for defraying the expenses of the Tenth Legislature up to June 30, 1980, and for the Legislative support agencies during the fiscal year 197980.

Your Committee finds that most legislative agencies have shown restraint in limiting salary increases to about 4.5% to 5% per year. However, since 1976 the executive director of the State Ethics Commission received salary increases of about 15% per year. Your Committee recommends that the matter of a further salary increase for the executive director be reserved pending review of the workload responsibilities of the director and assistant and that no appropriation providing for salary increases be made or allowed.

Your Committee further notes that the Ethics Commission did not testify as to the need or justification for further salary increases following the recent significant increases already provided. Thus, your Committee has amended H.B. 11, H.D. 1 by reducing that part of the appropriation to the Legislative Auditor to defray the expenses of the State Ethics Commission by \$3,430.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 11, H.D. 1, as amended herein and recommends that it pass Second Reading in the

form attached hereto as H.B. No. 11, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 14 Legislative Management

Informing the Senate that S.C.R. Nos. 22 and 23, S.R. Nos. 107 to 120, S.B. Nos. 650 to 758 and Stand. Com. Rep. No. 13 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 15 Legislative Management

Informing the Senate that S.R. Nos. 121 to 123 and S.B. Nos. 759 to 1017 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 16 Legislative Management

Informing the Senate that S.C.R. Nos. 24 to 27, S.R. Nos. 124 to 138 and S.B. Nos. 1018 to 1473 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 17 Legislative Management

Informing the Senate that S.C.R. No. 28, S.R. Nos. 139 and 140 and S.B. Nos. 1474 to 1825 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 18 Legislative Management

Informing the Senate that S.C.R. No. 29 and S.R. Nos. 141 to 157 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 19 Judiciary on S.B. No. 13

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The pertinent language of Article II to which such conformance is addressed by this bill reads as follows:

"CAMPAIGN FUND, SPENDING LIMIT

Section 5. The legislature shall establish a campaign fund to be used for partial public financing of campaigns for public offices of the State and its political subdivisions, as provided by law. The legislature shall provide a limit on the campaign spending of candidates.

CAMPAIGN CONTRIBUTIONS LIMITS

Section 6. Limitations on campaign contributions to any political candidate, or authorized political campaign organization for such candidate, for any elective office within the State shall be provided by law."

1. Background Considerations. Preliminarily, a brief overview of the history of legislation on the subject matter of campaign spending contribution and disclosure is in order. First of all, comprehensive legislation over campaign spending and disclosure was enacted by the 1973 Legislature by Act 185, SLH 1973; which placed expenditure limits differentiated by schedule among different elective offices based on number of voters that must be reached; and which required disclosure on spending and contribution, but which did not place limits on contribution.

Second, the Supreme Court of the United States issued its decision in Buckley et al. v. Valeo et al., 424 U.S. 1 (1976) on January 30, 1976, by which it ruled that the spending limits imposed by the federal law was invalid, but it validated the contribution and disclosure

requirements of that law.

Third, the 1977 legislature amended the law to delete the spending limits by Act 127, SLH 1977, thereby conforming to Buckley.

Finally, the Constitutional Convention of 1978 amended Article II of the Hawaii State Constitution requiring (1) the establishment of partial public financing, (2) the provision of a limit on campaign spending of candidates, and (3) enactment of limitations on campaign contributions.

Crucial to your committee's initial consideration of this bill was the apparent conflict between the proscription in Buckley against expenditure limits and the Constitutional Convention's mandate to establish expenditure limits. Accordingly, we now address ourselves to an analysis of this problem.

The delegates to the Constitutional Convention expressed great concern in the depletion and damage of public confidence in our political process by its domination by money. It indicated its concern that the high cost of running for office generates pressures to raise inordinance sums and that such pressure has caused widespread public belief that public officials once elected cannot have "the flexibility to act in a manner detrimental to the interest of their powerful backers." It indicated its concern that high cost of campaigns also effectively discourages individuals from participating as candidates because it engenders the belief that "the political process is the exclusive domain of the rich." They concluded that our democratic process can have no meaning without a reasonable measure of public confidence in its integrity.

Addressed more specifically to the constitutional problem raised by Buckley, Standing Committee Report No. 72 of the Constitutional Convention states on page 8:

"The limitation on campaign spending is not without constitutional problems. The limitation on spending would be constitutionally justified if linked to public financing but Buckley v. Valeo, 424 U.S. 1 (1976) presents a constitutional hurdle to limiting expenditures for those not receiving public financing. Your Committee is fully aware that litigation will be necessary to determine the validity of any limits on spending by those who do not receive public financing but your Committee believes that such litigation is necessary and welcome because the public interest served by campaign spending limits is so essential."

Your Committee is aware of the arduous task presented by the facts as described in the foregoing discussion. We are aware that the constitutional issue raised in Buckley and which is addressed by the Constitutional Convention's mandate to establish expenditure limits, falls on the First Amendment. We are mindful that the First Amendment must necessarily afford the broadest protection to political expression and ensure unfettered interchange of ideas.

The Buckley case did not address itself to the problem where as here, public confidence in our political process has been found to be grossly compromised as to endanger the essential fabric of our system of government. Rather, the Buckley decision is founded on the proposition that expenditure limits are invalid because they reduce "the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached." 424 U.S. at 19 and 20. It is our view generally that it would be within the permissible confines of Buckley if expenditure limits are established in reasonable protection of the public's right to participate meaningfully in the political process and to be reasonably secure in its confidence in the integrity of our political process.

2. Structural Changes to Present Law. In keeping with the mandate of Article II, Sections 5 and 6 of the Hawaii Constitution, this bill is comprised of three major sections: contribution limits, expenditure limits, and partial public financing of campaigns. Briefly, these provisions under this bill are as follows:

A. Contribution Limits (pp. 19-19a).

(1) Campaign contributions from individuals have been limited to:

\$2,000 for a primary, special primary election;

\$2,000 for a general election;

\$5,000 total aggregate amount per year for each individual.

(2) Campaign contributions from committees, corporations, associations, or

labor unions have been limited to:

\$5,000 for a primary, or special primary election;

\$5,000 for a general election.

B. Expenditure Limits (pp. 20-21a). Expenditure limits have been set for each statewide, county, or district elective office. The expenditure limits are determined by the sum equal to the total number of eligible voters for a particular race multiplied by the following corresponding amounts:

(1) For a primary, or special primary election:

for the office of governor -- 60 cents;

for the office of lieutenant governor -- 45 cents;

for the offices of mayor and prosecuting attorney -- 45 cents;

for the offices of state senators and county council members -- 30 cents;

for the offices of state representatives -- 30 cents;

for the offices of the board of education and all other offices -- 1 cent.

(2) For a general election:

for the office of governor -- 60 cents;

for the office of lieutenant governor -- 40 cents;

for the offices of mayor and prosecuting attorney -- 45 cents;

for the offices of state senators and county council members -- 30 cents;

for the offices of state representatives -- 30 cents;

for the offices of the board of education and all other offices -- 1 cent.

An increase of five per cent per year after 1979 will be added to the base amounts as set forth above.

C. Public Funding (pp. 29-30). General fund revenues will be used to partially finance all campaigns for primary, special primary, or general elections. A candidate for statewide, county, or district office shall be eligible to receive up to twenty per cent of the expenditure limit set for his respective office upon reaching a qualifying sum of private contributions. A candidate qualifies for public funds by raising \$10 or more in private contributions from a set number of donors. Upon qualifying for public financing, a candidate will receive fifty per cent of his total allotment of public funds. Supplemental funds may be requested up to the maximum ten days prior to an election. Each candidate who receives public funds must agree to abide by the expenditure limit set for his respective office.

D. Tax Credit (pp. 33-34b). S.B. No. 13, S.D. 1 also includes a section designed to allow a tax credit for taxpayers who contribute to candidates who have agreed to abide by spending limits. The taxpayer may deduct up to fifty per cent of his contribution, but not more than \$25 for an individual, or \$50 for a married couple filing jointly. Tax credit forms shall be distributed only to candidates who have agreed to limit their expenditures. All taxpayers who wish to take the tax credit must obtain the credit form from the candidate. The names of all candidates who do not agree to limit their expenditures shall be published in the newspaper.

3. Spending Limit. As previously discussed, your Committee is aware of the severe impact of Buckley with regard to spending limits and public confidence. We are aware that many are demoralized by the notion that Buckley will permit absolutely no limitation to spending, and that by such construction, the entire nation must, in the name of free speech, allow an eventual and total commercialization of our political process. We do not subscribe to such pessimism, and believe that as with everything else campaign spending must admit of limitations that reflect responsible respect for the rights of others.

Your Committee has labored many hours over the spending limits concerned particularly that such limits should allow abundance of opportunity to communicate fettered only in reasonable protection of public confidence. In our deliberations we considered, among other things,

- (1) The nature and make-up of the respective voting population;
- (2) Information from past elections;
- (3) Cost data of the various media of communication and modes of campaigning;
- (4) The probable effect of the level of expenditures in obtaining the willingness of individuals to lend themselves to candidacy;
- (5) Probable effect in maintaining a level of public confidence in our political process necessary to retaining a believable democracy and;
- (6) Probable effect in the process of preserving to each candidate a full and reasonable exercise of his right of expression -- reflecting abundance by way of allowing a generous quantity of expression, depth of exploration of ideas, and the size of the audience to be reached in each voting district.

Upon such labor, your Committee specifically finds that each of the respective spending limits would be in reasonable balance for the election of 1980 so as to afford protection to public confidence without placing undue burden on each candidate's right of free and adequate expression. Additionally, we have allowed a five per cent annual increase over the limit so provided so that such limits should in actuality be greater than our projections in 1980. We have done this so that any error in our projection should fall toward allowing a more generous limit than otherwise.

Our review of the spending pattern for the election years commencing 1974 reveals that the candidates in 1974 were able to readily to comply with the spending limits established by the 1973 legislation, and that no complaint was made under that law by any candidate that he had been in any way burdened in his right of expression.

Such review also shows that for all offices other than governor and mayor the spending matters of the candidates had by and large closely reflected the 1973 limitation figure in the elections of 1976 and 1978. If the gubernatorial and mayoral races veered from the norm, it is precisely in these races that public confidence has suffered grave demoralization because "money" has obtained apparent reign over our democratic process.

4. Contribution limits and disclosure requests. Your Committee notes that contribution limits and disclosure requirements were found valid in Buckley. This bill differs from prior law in that contribution limits are imposed as mandated by Article II, Section 6 of the Hawaii State Constitution.

Your Committee has deliberated upon the contribution limits along lines of analysis similar to that followed in our establishment of the spending limit, with the additional concern that these contribution limits should prevent corruption while at the same time allowing candidates reasonable opportunity to solicit contributions toward their free and adequate exercise of political expression.

5. Disclosure Requirements and Ballot Issues. Attention of your committee has been brought to page 6 of Attorney General's Opinion No. 76-2 which states:

"We are of the opinion, however, that that (disclosure and reporting) provision cannot be applied to committees not controlled by a candidate and which merely support a ballot issue." (parentheses added.)

Your Committee has reviewed Buckley in this regard and is of a different interpretation.

We are mindful of the strict test applied by the courts in determining the validity of governmentally compelled disclosure requirements. We are also mindful that in Buckley, the U. S. Supreme Court narrowly construed the operation of the federal spending and contribution disclosure requirements on individuals and groups that are not candidates or political committees, and said that the statutory language in that regard governed only "contributions earmarked for political purposes" and expenditures "for communications that expressly advocate the election or defeat of a clearly identified candidate."

However, nowhere in that decision did the U. S. Supreme Court specifically prohibit contribution disclosure requirements imposed upon ballot issues. We think that to construe

Buckley as prohibiting such requirements constitutes overbreadth in the interpretation of that decision.

The reason for our view is that the U. S. Supreme Court validated disclosure requirements in Buckley as bearing "sufficient relationship to a substantial governmental interest" because such requirements served "informational interest" and imposed "a reasonable and minimally restrictive method of furthering First Amendment values by opening the basic processes of our federal election system to public view." 424 U.S. 81-83.

We deem it similarly important to bring information of contributational support of ballot issues in our election system to public view so that the electorate may have full opportunity to exercise its right to know. Certainly, where particular ballot issues may be advantageous to specific private interest groups, the electorate must be able to exercise its right of franchise with the full opportunity to be informed of the extent of financial support being heaped in favor, or in opposition, of such ballot issues. We think that the public's right to be properly informed is a substantial governmental interest and reasonable requirements for disclosure in that regard are not prohibited as impermissible violations of the First Amendment by the Buckley decision.

Accordingly, we have retained the disclosure requirements pertaining to ballot issues in the present law.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 13, S.D. 1, as amended herein, and recommends that it be recommitted to the Committee on Judiciary for further consideration.

Signed by all members of the Committee except Senators Cobb and George.

SCRep. 20 Legislative Management

Informing the Senate that S.C.R. No. 30, S.R. Nos. 158 and 159 and Stand. Com. Rep. No. 19 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator George.

SCRep. 21 Consumer Protection and Commerce on S.B. No. 264

The purpose of this bill is to add a new section to Chapter 237 of the Hawaii Revised Statutes exempting from the general excise tax the gross income and proceeds of sales resulting from transactions between a parent corporation and its subsidiaries. Also exempted under this bill are members of affiliated groups of corporations provided that members retain their membership in the affiliated group and the groups file a consolidated return under Chapter 235.

Section 235-7(c) is amended to allow dividends received by corporations from stocks of their parent or subsidiary corporations to be deducted from its income under the State income tax. Exemptions also apply to members of affiliated groups from stocks of other members of the group provided that they maintain membership in the group and file a consolidated return under this section.

Your Committee is in agreement that an inequity exists from "pyramiding" the general excise tax and thereby giving a corporation structured horizontally a break over those structured vertically. Under current Statute, corporations and their subsidiaries as well as affiliated groups of corporations are treated as a single taxpayer and permitted to file a consolidated income tax return. This bill extends this current practice to the general excise tax.

Your Committee also is in agreement with amending Section 235-5(c) as suggested by this bill.

Your Committee recommends that the Committee on Ways and Means pursue the revenue impact of this bill as it is deemed to be in their purview.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 264 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 Ushijima.

SCRep. 22 Human Resources on S.B. No. 31

The purpose of this bill is to implement Article IX (Public Health and Welfare), Section

3 (Public Assistance Payments) of the Constitution of the State of Hawaii as amended by the Hawaii Constitutional Convention of 1978.

Your Committee finds that present statutes use the term "money payments" to refer to payments for the benefit of persons whom the department has determined to be without sufficient means of support, as prescribed in chapter 346 (Department of Social Services and Housing).

Your Committee further finds that the generic term "financial assistance" more clearly encompasses assistance currently being provided through indirect money payments such as vendor payments permissible under federal regulations.

The bill makes no substantial changes to the present statute; it is a "housecleaning" measure which substitutes the terminology "financial assistance" in lieu of "money payments" throughout Chapter 346 in conformity with recent Constitutional amendments.

Your Committee has made technical amendments to the bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 31, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as S.B. No. 31, S.D. 1.

Signed by all members of the Committee.

SCRep. 23 Judiciary on S.B. No. 6

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article I, section 13 to which such conformance is addressed by this bill reads as follows:

"Section 13. In suits at common law where the value in controversy shall exceed one thousand dollars, the right of trial by jury shall be preserved."

The Constitutional Convention acted to raise the minimum amount in question before a jury trial is required in civil cases because "\$100 is too small by today's standards, especially when viewed with regard to inflation." [Constitutional Convention Standing Committee Report No. 69, page 3.]

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 6 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 Ushijima.

SCRep. 24 Judiciary on S.B. No. 11

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article II, Section 8 to which conformance is addressed by this bill reads as follows:

"Special and primary elections may be held as provided by law; provided that in no case shall any primary election precede a general election by less than forty-five days."

Your Committee heard testimony from Lieutenant Governor Jean King who suggested an amendment changing the primary date to the "second-to-the-last Saturday of September" as this date would be closer to the forty-five day requirement. However, using that date, the situation might exist where the primary would be less than the forty-five day requirement. Your Committee preferred the original language, which would give the benefit of the longer time period to both the elections division of the lieutenant governor's office as well as candidates for office.

While selecting another day of the week would come closer to the forty-five day requirement in most instances, your Committee felt Saturday was the best day for the primary, as another state holiday would not have to be declared for primary voting. The lieutenant governor's office concurred with this decision.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 11 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 Ushijima.

SCRep. 25 Judiciary on S.B. No. 12

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article V to which such conformance is addressed by this bill reads as follows:

"No person shall be elected to the office of governor for more than two consecutive full terms. . . . No person shall be elected to the office of lieutenant governor for more than two consecutive full terms."

The Constitutional Convention felt that a strong executive office should be retained as a part of the Constitution. However, it was concerned that without a limitation on the number of terms, an incumbent would be able to build a political machine to perpetuate reelection. Therefore, it acted to limit the number of consecutive terms of the executive.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 12 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 Ushijima.

SCRep. 26 Judiciary on S.B. No. 15

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The changes imposed by the portions of Article IV pertain to reapportionment of the members of the state legislature and Hawaii's congressional districts for the United States House of Representatives.

In order to clarify the ten year period a reapportionment plan will be in effect, your Committee has amended page 3, lines 20 through 22 which state:

". . . and govern the election of members of the next [four] five succeeding state legislatures[.], and of the United States House of Representatives from this state."

to read as follows:

". . . and govern the members of the [next four succeeding] state legislature[s.], and of the United States House of Representatives from this State for ten years."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 15, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 15, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 27 Judiciary on S.B. No. 16

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article VII, Section 2, to which conformance is addressed by this bill, reads as follows:

"In enacting any law imposing a tax on or measured by income, the legislature may define income by reference to provisions of the laws of the United States as they may be or become effective at any time or from time to time, whether retrospective or prospective in their operation. The legislature may provide that amendments to such laws of the United States shall become the law of the State upon their becoming the law of the United States. The legislature shall in any such law set the rate or rates of such tax. The legislature may in so defining income make exceptions, additions or modifications to any provisions of the laws of the United States so referred to and provide for retrospective exceptions or modifications to those provisions which are retrospective."

Your Committee heard testimony from George Freitas, the Director of Taxation, who concurred with the intent of the bill, which would clarify the Department of Taxation's role in submitting conformity bills. He testified that this procedure was preferable to automatic conformance to federal laws, which would present innumerable problems. Your Committee concurred with this opinion.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 16 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 Ushijima.

SCRep. 28 Judiciary on S.B. No. 17

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article VII, Section 3 to which conformance is addressed by this bill reads as follows:

"There shall be a tax review commission, which shall be appointed as provided by law on or before July 1, 1980, and every five years thereafter. The commission shall submit to the legislature an evaluation of the State's tax structure, recommend revenue and tax policy and then dissolve."

Your Committee was in accord with the purpose of the bill, which was to set up a tax review commission. The duties of the commission would be to conduct a systematic review of the State's tax structure, and submit evaluations and recommendations to the legislature.

Testimony was heard from George Freitas, Director of Taxation, who felt such a commission should be carefully reviewed before put into effect. Your Committee, however, determined that there was a present need for this body, as provided by the Constitution. Mr. Freitas also suggested that the commission consist of six members, and that a year term was necessary for the commission to conduct an adequate review. Your Committee agreed with this, and also wanted it clear that the commission was to dissolve after a year's term, and that it could dissolve prior to a year if its work was completed. The members of the commission were not to be compensated for their work, except for reimbursement of actual expenses.

The sum of \$40,000 was appropriated for the operation of the tax review commission, including the hiring of staff.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 17 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 Ushijima.

SCRep. 29 (Majority) Judiciary on S.B. No. 19

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of article VII, section 5 to which conformance is addressed by this bill reads as follows:

"General fund expenditures for any fiscal year shall not exceed the State's current general fund revenues and unencumbered cash balances, except when the governor publicly declares the public health, safety or welfare is threatened as provided by law."

Your Committee is in accord with the purpose of this bill, which provides that the State balance its budget, except when the governor publicly declares a threat to the public health, safety, or welfare. In accordance with this purpose, the director of finance shall monitor general fund expenditures to see that they have not and will not exceed revenues and unencumbered cash balances from previous years. If the expenditures are in excess, the director shall also reduce allotments to departments or establishments seeking appropriations.

Amendments were made to S.B. No. 19 after your Committee concurred with suggestions made by Eileen R. Anderson, Director of Finance.

The provisions of section 3 will now amend chapter 37 of the Hawaii Revised Statutes. The feeling was that as this section deals with the monitoring of general fund expenditures to prevent deficit spending, it would more appropriately be placed in chapter 37, rather than section 36-2, which is applicable to the cash management aspect of the state financial administration.

The definitions section was also amended to comply with suggestions made by the

state comptroller's office.

The definition of "current general fund revenues" in S.B. No. 19 meant "the most recent accounting of the total amount of moneys available in the general fund." This figure, however, would not be available until the year's end. What we needed was a revenue estimate, so the language "anticipated revenues of the general fund for the current fiscal year as currently estimated by the Council on Revenues" was used. The suggested definition for "unencumbered cash balance" was also adopted.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. 19, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 19, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.
Senator Carroll did not concur.

SCRep. 30 Judiciary on S.B. No. 20

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article VII, Section 6, to which such conformance is addressed by this bill reads as follows:

"Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law."

S.B. No. 20 was amended by your Committee after hearing testimony of the director of taxation that while he would have the authority to submit a bill to the legislature providing for a tax refund or credit (subsection (b)), subsections (a) and (c) of the bill were inappropriate for his department. These subsections, dealing with a report on the excess revenues and a plan for their distribution, were then placed under the authority of the director of finance.

Your Committee also replaced the word "remedy" with "distribution" to more clearly express the intent of the constitutional amendment.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 20, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 20, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 31 Judiciary on S.B. No. 21

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article VII, Section 7 to which conformance is addressed by this bill reads as follows:

"There shall be established by law a council on revenues which shall prepare revenue estimates of the state government and shall report the estimates to the governor and the legislature at times provided by law. The estimates shall be considered by the governor in preparing the budget, recommending appropriations and revenues and controlling expenditures. The estimates shall be considered by the legislature in appropriating funds and enacting revenue measures. All revenue estimates submitted by the council to the governor and the legislature shall be made public. If the legislature in appropriating funds or if the governor in preparing the budget or recommending appropriations exceeds estimated revenues due to proposed expenditures, this fact shall be made public including the reasons therefor."

Your Committee amended S.B. No. 21 to make the monthly updates of the revenue estimates optional on the part of the council on revenue estimates, or if requested by the governor or legislature. This was done because it was felt that economic conditions may not change sufficiently between quarters to warrant revising and updating the estimates monthly.

S.B. No. 21 was also amended to provide that the base estimate of the council against which the estimates of the governor and legislature would be compared shall be the latest council estimate. This was done because of an expressed concern that it was unclear which of the numerous estimates made annually by the council should be used

by the governor and legislature as the comparison estimate.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 21, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 21, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 32 Judiciary on S.B. No. 22

The purpose of this bill is to incorporate in the Executive Budget Act the pertinent provision of Section 8 of Article VII of the State Constitution which prescribes that the proposed general fund expenditure in the plan of proposed expenditure, including the estimates of the aggregate expenditures of the judicial and legislative branches, submitted by the Governor shall not exceed the general fund expenditure ceiling established by the Legislature.

Also incorporated in the Executive Budget Act is the provision of Section 8 of Article VII which allows the Governor to exceed the expenditure ceiling by making a public disclosure by means of the executive budget document setting forth the amount and rate by which the proposed budget will exceed the expenditure ceiling, the specific reasons therefor and the possible impact if the expenditure ceiling were imposed.

Section 37-71 and Section 37-72 of the Executive Budget Act are also amended to additionally require that the biennial budget and supplementary budgets of the executive and the judicial branches, respectively, be submitted to the Legislature in bill form in conformance with the requirements of Section 8 of Article VII of the State Constitution.

Section 37-71(3) of the Executive Budget Act is amended to include a requirement for a summary financial statement reflecting the general fund expenditure ceiling and the aggregate general fund expenditures estimated for the judicial and legislative branches along with the general fund expenditures proposed for the executive branch.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 22 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 Ushijima.

SCRep. 33 Judiciary on S.B. No. 49

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The pertinent language of Article VI, Section 3 to which such conformance is addressed by this bill reads as follows:

"There shall be a salary commission to review and recommend salaries for justices and judges of all state courts. Justices and judges shall have salaries as provided by law."

The Judiciary, by its testimony before your committee has suggested that the concept of judicial independence dictates that the Judicial Court be allowed to function to review and recommend judicial salaries. Your Committee has rejected that view, as the Judicial Council is appointed by the Supreme Court, whose salary is squarely among those subject to review by the Judicial Salary Commission.

We think public confidence in our judicial system is better served by the application of the "checks and balances" principal of the concept of separation of powers. To that end we have retained the provision of the original form of the bill that requires participation of the executive branch in the form of gubernatorial appointment, noting in that regard that the Judicial Salary Commission functions in advisory capacity to the legislature which has the ultimate responsibility by the constitution to set judicial salaries.

Your Committee appreciates, as pointed out in the Judiciary's testimony, that substantial expertise is acquired by members of the Judicial Council in the course of their years of review of matters of judicial service. For that reason your Committee has confined the selection of members of the Judicial Salary Commission from among members of the Judicial Council.

Your Committee is also aware that public confidence in the independence of the Judicial Salary Commission is all important to the success of its endeavor. Accordingly, we

have further amended the original form of the bill to provide (1) that selection of its members shall be from among persons "whose salaries are not within the purview of the commission's function;" and (2) that the Judicial Salary Commission "shall function independently of the judiciary and the Judicial Council."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 49, as amended herein, and recommends that it pass second reading in the form attached hereto as S.B. No. 49, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 34 Judiciary on S.B. No. 51

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The changes imposed by the portions of Article VI, Sections 3 and 4 and Article XVIII pertinent to this bill, are addressed to the establishment of the Judicial Selection Commission.

Your Committee appreciate the Judiciary's suggestion in its testimony that "the Judicial Selection Commission may be established without the aid of legislation." We are concerned, however, that without specific statutory recognition, the Judicial Selection Commission may be hampered in its establishment and accommodation. We think that the importance of its function deserves specific identification within our statutory framework.

Your Committee is also aware of the comprehensive treatment accorded the Judicial Selection Commission in the Hawaii State Constitution. Such treatment, we feel, is indicative of the very serious concern the delegates of the Constitutional Convention of 1978 placed upon its early establishment and full accommodation.

This bill also addresses itself to the problems of conflicts of interests in situations where attorney members of the Judicial Selection Commission appear before nominees who are judges, and where members of such commission are party litigants in a case before such judges. Appropriate disqualification is required in such and related situations. It is expected that all other situations that may tend to damage public confidence in the integrity of the Judicial Selection Commission would be treated similarly and assiduously avoided.

Your Committee is aware of the Constitutional Convention's attempt to wrestle with the problem of conflict of interest, and its intent that the legislature should address itself to that problem. We have, however, after serious deliberation, considered that specific legislation in that regard should not be attempted at this time other than by enactment of a statutory provision essentially in the language initially recommended by the Convention's Committee of the Whole Report No. 10.

Your Committee's action in this regard is not intended to circumvent the mandate of the Constitutional Convention. It is our view, rather, that effective and detailed legislation will be best obtained after the Judicial Selection Commission should have had an opportunity to establish its own internal ground rules. In this regard, it is expected that the Judicial Selection Commission will be communicating with the legislature respecting its view on the subject.

It is also expected that the scope of present statutory enactment will meet the immediate problems of conflicts of interests, and that the Judicial Selection Commission's acquired experience over the next several years will allow a clearer identification of specific problems and the extent to which they may be best resolved by statutory clarification and restriction.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 51, 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 Ushijima.

SCRep. 35 Judiciary on S.B. No. 392

Your Committee heard testimony from Judge Masato Doi; Captain David Heaukulani of the Honolulu Police Department; Eduardo Malapit, Chairman, Supervisory Board of the State Law Enforcement and Juvenile Delinquency Planning Agency; and the Attorney General's office, all who supported the intent of the bill.

The purpose of S.B. No. 392 is to bring the State of Hawaii into compliance with federal regulations, specifically section 524(b) of the Crime Control Act of 1973. This section required

the Law Enforcement Assistance Administration (LEAA) to take steps to insure that agencies which "collected, stored or disseminated" criminal history record information with LEAA funds would (1) obtain dispositions; (2) keep information current; (3) maintain security; (4) restrict use to legitimate purposes; and (5) allow inspection by the record subject. Federal regulations implemented by the LEAA and Department of Justice pursuant to this mandate urge states to establish central record repositories for maintenance of comprehensive statewide criminal history record information files. The testimony indicated that the effect of these regulations is that each state receiving LEAA funds is expected to statutorily incorporate their data center. In Hawaii's case, all functions currently being performed by the Hawaii Criminal Justice Statistical Analysis Center (SAC) will be incorporated into the S.B. No. 392 data center.

S.B. No. 392 was amended to add a new section that mandates coordination of the SAC with the computer center under the jurisdiction of the Intake Service Center. Great concern was expressed over the overlapping activities and functions of these two bodies, the duplication of personnel and large amount of money being spent. To alleviate these concerns this section was added, so that duplication would be eliminated.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 392, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 392, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 36 Judiciary on S.B. No. 34

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article IX, Section 10, to which such conformance is addressed by this bill reads as follows:

"The law of the splintered paddle, mamala-hoe kanawai, decreed by Kamehameha I - Let every elderly person, woman and child, lie by the roadside in safety - shall be a unique and living symbol of the State's concern for public safety."

S.B. No. 34 is intended to statutorily recognize the legislature's concern for the growing crime rate and public safety. Your Committee believes this is an area that deserves special and increased recognition.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 34 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 Ushijima.

SCRep. 37 Judiciary on S.B. No. 42

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The changes imposed by article XIV pertinent to the bill are addressed to the adoption of a code of ethics by the legislature and the administration by the state ethics commission of the code of ethics adopted by the Constitutional Convention.

Your Committee, upon analysis of article XIV, notes that it requires:

- (1) Prohibition of members of the state ethics commission from active participation in political management or campaigns.
- (2) Selection of its members "in a manner which assures their independence and impartiality."
- (3) "Provisions on gifts, confidential information, use of position, contracts and government agencies, post-employment, financial disclosures and lobbyist registration and restrictions."

S.B. No. 42 in the form of S.D. 1, accomplishes the foregoing in the following manner:

(1) Prohibition of commission members from political management and campaigns. This is accomplished by addition of a new statutory section to part IV of chapter 84 conforming to the identical language of article XVI.

(2) Selection and removal of commission members. Your Committee has reviewed the proceedings of the Constitutional Convention for informational purposes and finds nothing to suggest the need to change the selection process provided by section 84-21.

To briefly review the selection process provided by present law, vacancies in the state ethics commission are filled by the governor, but only from a panel of two persons nominated by the judicial council; a commission member may serve only two four-year terms, and may be removed by the governor only upon the filing of a written finding.

Your Committee is mindful of the very comprehensive consideration accorded by the 1972 legislature in fashioning such restrictions for selection and removal of state ethics commission members. Upon our consideration, we find wisdom in requiring the participation of the executive and judiciary branches in a form of "check and balance" in the selection process. Noting that the ultimate authority for selection must rest somewhere, we find the present process to place such authority reasonably remote from the political arena. Finally, we expect the requirement with regard to the written findings will provide full public scrutiny and thereby prevent political intrusion.

As such, your Committee concludes that the process of selection and removal presently provided by section 84-21 best assures the independence and impartiality of the state ethics commission. We wholeheartedly endorse the Constitutional Convention's concern that independence and impartiality of any ethics commission must be the primary base from which it must initiate its function.

(3) Provisions pertaining to various items other than financial disclosure and lobbyist registration and restrictions. Your Committee has examined present law with regard to each item expressly required to be included in the code of ethics as set out in article XIV. We find that such items are comprehensively covered in the respective statutory sections:

- (a) Gifts -- section 84-11;
- (b) Confidential information -- section 84-12;
- (c) Use of position (fair treatment) -- sections 84-13 and 84-14;
- (d) Contracts with governmental agencies -- sections 84-15 and 84-16; and
- (e) Post-employment (restrictions) -- section 84-18.

(4) Financial disclosures. Article XIV provides that financial disclosure provisions shall require: (a) public financial disclosures by all elected officers, candidates for elective office and appointed officers and employees; (b) confidential disclosures by other public officials having significant discretionary or fiscal powers; and (c) that all disclosure statements shall include among other things "sources and amounts of income, business ownership, officer and director positions, ownership of real property, debts, creditor interests in insolvent businesses and the names of persons represented before government agencies."

Your Committee has reviewed section 84-17 and has amended the same to conform to article XIV. Contrasted against the present law, S.B. No. 42, S.D. 1 now provides for the application of "public" and "confidential" disclosures as differentially mandated by article XIV. We also find that the present law already provides for the inclusion of all items required in disclosure statements by the Constitutional Convention.

(5) Lobbyist registration and restriction. Your Committee has responded to the mandate in article XIV that requires inclusion of the subject matters of lobbyist registration and restriction among those to be administered by the state ethics commission. S.B. No. 42, S.D. 1 accomplishes this by transferring the lobbyist registration function placed with the office of the legislative auditor under present law, to the state ethics commission.

Your Committee has been informed that possibly an inordinate number of registrations may have been obtained under chapter 97 governing lobbyists, and the reason for this may be the very broad definition of "lobbying" expressed in section 97-1(7). Concern has been expressed as to whether the heavy registration was necessary in the public interest, or whether it reflects overbreadth of its real and intended purpose.

Your Committee has not attempted to resolve that particular problem by this bill. Rather, it has asked the executive director of the state ethics commission to investigate the situation in the course of such registration function being transferred to the commission and to submit a report to your Committee.

(6) Administration of the code of ethics adopted by the Constitutional Convention. Article XIV provides that the state ethics commission shall administer the code of ethics adopted by the Constitutional Convention. Your Committee, by S.B. No. 42, S.D. 1, has accommodated the same by effectuating appropriate changes to various sections of chapter 84.

Your Committee endorses the concern and efforts of the Constitutional Convention to strengthen, broaden and promote the observance of ethics in Hawaii's government. Keeping with that concern, we would remind all persons that these provisions governing code of ethics shall be liberally interpreted to foster adherence in preservation of public confidence in the integrity of our governmental process. We would urge that all persons connected with Hawaii's governmental process should strenuously strive to observe the spirit as well as the letter of these laws, and thereby affirmatively contribute to Hawaii's posterity.

Your Committee acknowledges the contributions of executive director of the state ethics commission, Mr. Gary M. Slovin, by way of suggested amendments to S.B. No. 42 in its original form. As such, S.B. No. 42, S.D. 1 was obtained in close collaboration with the state ethics commission as represented by Mr. Slovin.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 42, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 42, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 38 Judiciary on S.B. No. 45

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article XV, Section 4 to which such conformance is addressed by this bill reads as follows:

"Section 4. English and Hawaiian shall be the official languages of Hawaii, except that Hawaiian shall be required for public acts and transactions only as provided by law."

The Constitutional Convention, by Article XV, Section 4, acted in recognition of "the rich . . . cultural inheritance that Hawaiians have given to all ethnic groups of this State." (Constitutional Convention Standing Committee Report No. 57) Certainly, the beauty of the Hawaiian language is an important part of that heritage.

The proviso that Hawaiian "be required for public acts and transactions only as provided by law" reflects the concern that practical problems would arise if public activity and transactions could not be conducted without its use. This also reflects the present state of disuse of the Hawaiian language, but your Committee is encouraged by the information that our young people are beginning to take a renewed interest in its study.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 45 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 Ushijima.

SCRep. 39 Judiciary on S.B. No. 48

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article XVI, Section 13, to which such conformance is addressed by this bill reads as follows:

"Insofar as practicable, all governmental writing meant for the public, in whatever language, should be plainly worded, avoiding the use of technical terms."

S.B. No. 48 was intended to assure that governmental writing be concise, simple, and understandable, so that the people have access to the government's resources and information. To this end, nontechnical language should be used whenever possible. Hawaiian words, however, used as technical terms, may be written in Hawaiian.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 48 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 Ushijima.

SCRep. 40 Judiciary on S.B. No. 602

The purpose of this bill is to delete a provision from the present law requiring the public defender's office to pay for filing fees, appeal bonds and other court costs for indigent criminal defendants.

Your Committee finds that the payment of these court costs by the public defender's office is a superfluous requirement as such fees can be waived by the courts pursuant to Chapter 607, Hawaii Revised Statutes upon a showing of indigency.

Moreover, the implementation of this requirement unnecessarily imposes an administrative burden upon the State. In essence, this requirement provides for the State to pay itself at considerable expense in terms of administrative time required to budget and process payment for such costs.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 602, 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 Ushijima.

SCRep. 41 Human Resources on S.B. No. 744

The purpose of this bill is to provide the means to overcome the recruitment difficulties attributed to certain positions or classes in public employment.

Your Committee has amended this Short Form bill to more specifically accomplish its intent.

Your Committee has considered S.B. No. 744 as amended herein and recommends that it pass First Reading in the form attached hereto as S.B. No. 744, S.D. 1, and be recommitted to the Committee on Human Resources for further consideration.

Signed by all members of the Committee.

SCRep. 42 Legislative Management

Informing the Senate that S.C.R. Nos. 31 and 32, S.R. Nos. 160 to 172 and Stand. Com. Rep. Nos. 21 to 41 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 43 Judiciary on S.B. No. 1370

The purpose of this bill is to provide for the assignment by the Judiciary of positions at salary ranges SC-1, SC-2, and SC-3 in co-equality with the Executive branch of the State and with the several counties.

Your Committee has amended S.B. No. 1370 to provide only one such position as against the four positions requested by the original bill. Your Committee considers that the scope of functions, number of personnel and workload must be determinative of staffing, and that the same is not a matter of equalizing rank or protocol. Accordingly, without further justification of such staffing by the Judiciary, we have allotted only one position.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1370, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1370, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator George.

SCRep. 44 Housing and Hawaiian Homes on S.B. Nos. 153, 154 and 155

The purposes of these bills relate to Hawaiian Affairs.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. Nos. 153, 154, and 155, 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. 45 Judiciary on S.B. No. 52

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article VI, to which conformance is addressed by this bill as follows:

"The supreme court shall have the power to reprimand, discipline, suspend with or

without salary, retire or remove from office any justice or judge for misconduct or disability, as provided by rules adopted by the supreme court.

The supreme court shall create a commission on judicial discipline which shall have authority to investigate and conduct hearings concerning allegations of misconduct or disability and to make recommendations to the supreme court concerning reprimand, discipline, suspension, retirement or removal of any justice or judge."

The original form of S.B. No. 52 would have statutorily established a commission on judicial discipline and retirement. Your Committee agrees with the testimony of the Judiciary that the language of Article VI directs the supreme court to establish such a commission. Your Committee is also satisfied that unlike the judicial selection commission, statutory recognition of the commission on judicial discipline and retirement is not likely to be necessary to facilitate its urgent establishment.

Accordingly, S.B. No. 52 has been amended to delete provisions giving statutory recognition to the commission on judicial discipline and retirement, on the expectation that the supreme court will accomplish the same with due speed.

S.B. No. 52, S.D. 1 retains the repeal of Chapter 610, Hawaii Revised Statutes, which governs the subject matter of retirement and removal of justices and judges, as such chapter is in conflict with Article VI.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 52, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 52, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Ushijima and George.

SCRep. 46 Judiciary on S.B. No. 50

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Articles VI and XVIII, to which conformance is addressed by this bill reads as follows:

"The supreme court shall have the power to reprimand, discipline, suspend with or without salary, retire or remove from office any justice or judge for misconduct or disability, as provided by rules adopted by the supreme court.

The supreme court shall create a commission on judicial discipline which shall have authority to investigate and conduct hearings concerning allegations of misconduct or disability and to make recommendations to the supreme court concerning reprimand, discipline, suspension, retirement or removal of any justice or judge."

The original form of the bill addressed itself only to Section 604-2. It conformed such section to Articles VI and XVIII and also provided for the appointment of per diem district judges, allowing such judges to engage in the private practice of law while serving as judges.

Your Committee has amended the original form of S.B. No. 50 in the following respects:

(1) We have placed the "per diem" aspect of Section 604-2 in a new paragraph and added the provisions for manner of such judges compensation as provided in Section 604-1, and amended the headnote of such section to reflect coverage of "per diem" district judges.

(2) We amended Section 604-1 by deleting its provision respecting per diem district judges, as such subject matter by this bill is to be covered in Section 604-2 which is now to be appropriately entitled, "appointment and tenure of district judges; per diem district judges."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 50, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 50, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ushijima and George.

SCRep. 47 Ways and Means on S.B. No. 1122

Your Committee has considered said bill and recommends that it pass First Reading by title in the form attached hereto as S.B. No. 1122, S.D. 1, be printed and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senator Yee.

SCRep. 48 Economic Development on S.B. No. 106

The purpose of this bill is to provide funds for research and development, applications, and demonstration projects directed toward the development and utilization of alternate energy resources.

The proposed project fundings are based on recommendations made by the Hawaii Natural Energy Institute and advisory committees.

Your Committee has amended the bill by reducing the total appropriation from \$11,630,000 to \$5,000,000. This sum was found to be sufficient funding for priority one items requested by the Hawaii Natural Energy Institute. Specific amendments by program areas are as follows:

Geothermal

Your Committee has reduced the geothermal program appropriation from \$1,300,000 to \$300,000. The \$300,000 funding will be used for assessment of geothermal reservoirs, including well testing, in order to obtain drill site locations and design data for electrical generator systems. The deleted \$1,000,000 was to be used for an Oahu geothermal well.

Ocean Thermal

Your Committee has amended the appropriation to this program category by increasing the sum by \$100,000. The \$2,600,000 will be used for the OTEC program to complete the construction of the administration, warehouse, and shop buildings; laboratory and test facilities; offshore pipeline systems; visitors' center complex and utility connections.

Biomass

Your Committee has reduced the appropriation to the biomass program from \$1,900,000 to \$300,000 and has specified that the sum be used for the following projects: giant haele koa demonstration; sugarcane cultural practices to increase energy content; energy and feedstock from animal wastes; waste recovery from logging and forest thinning programs; and other biomass programs for energy.

Wind Energy Conversion

Your Committee has amended the amount of the appropriation to this program and has specified that the \$1,300,000 be used to provide siting, engineering design, acquisition, shipping, installation, and related costs of commercially available wind energy conversion systems to accelerate the commercialization of wind energy. A proviso was added to require that any money received by the State from the program will be deposited in the state general fund.

Solar Energy Conversion

Your Committee has reduced the appropriation for solar programs and has specified that the \$350,000 be utilized for installing a solar energy conversion systems research laboratory at Holmes Hall, University of Hawaii at Manoa, and for funding demonstration programs for solar air conditioning, thermal electric, photovoltaic, and process heat energy systems, including the matching of possible federal grants.

Other Energy Programs

Your Committee has reduced the appropriation to this program category and has specified that the \$150,000 be used for electric vehicle demonstrations; engineering and development work on submarine cables to interconnect the islands; and on energy storage systems development.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 106, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 106, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator George.

SCRep. 49 Economic Development on S.B. No. 108

The purpose of this bill is to provide permanent status for the Hawaii Natural Energy

Institute (HNEI) which shall be the lead organization in the State for natural energy research, development, and demonstration efforts.

Your Committee finds that a severe situation, almost total energy dependence, exists in Hawaii. Hawaii, however, has tremendous untapped potential in its natural energy resources: ocean energy, biomass, wind, direct solar, and geothermal. The HNEI has provided outstanding leadership in these five areas; as well as in related areas of demonstrating electric vehicles and interconnecting the major Hawaiian islands by submarine power cables. Major accomplishments have been the development of the first successful geothermal well with a wellhead generator being designed; establishment of seacoast test facility for ocean thermal energy conversion (OTEC) and other related research activities; providing leadership in a molasses-to-ethanol program for automotive fuel; the establishment of a wind energy applications network (WEAN) for Hawaii; and the development of many other significant projects.

The HNEI has been able to accomplish all of these efforts with a small temporary staff. The HNEI through its grant application efforts has generated more revenues for the State than has been provided for its operating requirements by the general fund.

In order that HNEI can continue its outstanding work, it should be provided a permanent status, a budget, and a core staff that is needed to coordinate its broad and significant programs.

Your Committee adopted the recommendation of the University of Hawaii by amending section 2 of the bill as received by your Committee as follows:

1. Deleting in subsection (a), the sentence beginning on line 21, page 3, and ending on line 2, page 4, which reads:

"The president of the University of Hawaii shall effectuate such reorganization changes within the university relating to the transfer of staff, equipment, records and duties as may be necessary."

2. Adding in subsection (c), the words "new positions" to line 1, page 5.

The purpose of these amendments is to clearly require the establishment of new positions in the HNEI rather than to give the university the flexibility of transferring existing positions to the HNEI.

Your Committee has made technical changes to the bill by renumbering section 4 to section 5 and adding a new section 4 setting forth the effect of underscoring in the bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 108, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 108, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator George.

SCRep. 50 Economic Development on S.B. No. 540

The purpose of this bill is to appropriate \$2 million to operate and maintain the Hawaii Large Fishing Vessel Loan Revolving Fund.

In testimony presented on February 15, 1979 before the Committee on Economic Development, Mr. Hideto Kono, Director of the Department of Planning and Economic Development (DPED), indicated that the establishment of a modern long-range fishing fleet in Hawaii was essential to the growth of our islands' commercial fishing industry.

The future of the industry lies in the development of the vast fishing resources in the area north of Midway, the Northwestern Hawaiian chain as well as the Western and Central Pacific areas. These fishing grounds would provide the industry with the opportunity for considerable expansion of the tuna catch. The expansion, in turn, would mean more jobs both on the vessels and in the shore processing facilities. It could lead to the development of support industries such as a bait supply industry. It would also mean more fish for local consumption and export, thereby strengthening our economic base. To reap the benefits of the tuna resources in these areas, large long-range vessels are needed.

In an October, 1977 report put out by DPED there was only one such vessel in the aku fleet. More vessels of this kind are needed by our aku fishermen; however, the average cost per vessel is approximately \$500,000. As attested by Mr. Kono, the lack of capital has been one of the major impediments in the establishment of a modern long-range fishing

fleet in Hawaii. Since April, 1978 there have been 14 requests for loans from tuna fishermen which were not processed due to lack of funds. The addition of \$2 million to the large fishing vessel loan fund, thus, would allow DPED to meet at least a portion of the requests and thereby assist our growing commercial fishing industry.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 540 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 George.

SCRep. 51 Economic Development on S.B. No. 624

The purpose of this bill is to amend section 189-3, Hawaii Revised Statutes, to protect those trade secrets and other confidential information of individual licensed commercial fishermen who submit this information to the department of land and natural resources through the "monthly catch report".

The department currently receives monthly catch reports from licensed commercial fishermen which contain information such as the location and amount of fish caught. Commercial fishermen regard this type of information that reveals their fishing operation as trade secrets which should not be disclosed. This bill would make the monthly catch reports confidential by specifically exempting them from "public records" as defined by section 92-50, Hawaii Revised Statutes.

Your Committee adopted the recommendation of the department of land and natural resources by amending the sentence beginning on page 2, line 11, section 1, of the bill as received by our Committee to read as follows:

"The department may compile and make available for inspection by the public information derived from an aggregate of a sufficient number of commercial fishermen such that the monthly fish catch reports pertaining to the amount of fish caught, the type of fish caught, and the primary producer values for such catches sold shall not reveal the identity of an individual fisherman."

The purpose of the amendment to the bill is to insure that information made public from the commercial fish catch reports are not attributable to any individual fisherman, thereby allowing the department to continue obtaining accurate information from commercial fishermen by insuring the confidentiality of their fish catch reports.

Your Committee has corrected some typographical errors in the bill and has made technical changes to the bill by renumbering section 2 to section 3 and adding a new section 2 setting forth the effect of underscoring and bracketing in the bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 624, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 624, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 52 Economic Development on S.B. No. 625

The purpose of this bill is to amend section 189-1, Hawaii Revised Statutes, to include marine plants and seaweeds under the purview of this section.

The Department of Land and Natural Resources asserts that a commercial fishing license should be required in order that essential information for the management of the seaweed resource may be collected through the established commercial catch reporting system. This can be achieved by amending the definition of "fish" as used in section 189-1, Hawaii Revised Statutes, to include all marine animals, plants, seaweeds, or products thereof.

Your Committee has made minor language changes in the bill to correct inadvertent omissions and typographical errors in the bill. Your Committee has also made technical changes to the bill by renumbering section 2 to section 3 and adding a new section 2 setting forth the effect of underscoring and bracketing in the bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 625, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 625, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 53 Economic Development on S.B. No. 626

The purpose of this bill is to amend chapter 188, Hawaii Revised Statutes, to authorize the Department of Land and Natural Resources to designate agents to sell freshwater game fishing licenses in accordance with the procedures and conditions set forth in section 191-7, Hawaii Revised Statutes.

Section 188-49, Hawaii Revised Statutes, requires that a license must be procured to fish for, take, or catch any introduced freshwater game fish. However, while section 188-50, Hawaii Revised Statutes, authorizes agents of the Department of Land and Natural Resources to issue the license required by section 188-49, statutory authority to designate the agents to sell the freshwater game fish license is not clearly defined. This bill authorizes the department to designate agents for setting the freshwater game fish license, including the necessary terms and conditions relating to the appointment of such agents.

Your Committee has made technical changes to the bill by renumbering section 2 to section 3 and adding a new section 2 setting forth the effect of underscoring.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 626 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 626, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 54 (Majority) Economic Development on S.B. No. 627

The purpose of this bill is to amend section 188-40, Hawaii Revised Statutes, to make the term "lobster" apply only to slipper lobster, thus leaving the minimum size for sale of spiny lobster to be regulated by the Department of Land and Natural Resources, Division of Fish and Game, regulation 22: relating to the management of native lobsters or ula.

Currently, section 188-40, Hawaii Revised Statutes, makes it illegal to sell both the spiny and slipper lobsters that weigh less than a pound. As a result of studies conducted by the department, it has been determined that 3-1/4 inches of carapace length on a spiny lobster is equivalent to a one-pound size. This linear measurement has been found to be more practical and usable by recreational and commercial fishermen as well as enforcement personnel. This bill amends the law by inserting the term "slipper" before the word "lobster" to specify the one-pound minimum size applicable to slipper lobster only. This amendment would therefore exempt spiny lobster from the provision of the law and allow the department to apply the carapace measure adopted in Division of Fish and Game regulation 22.

Your Committee has made technical changes to the bill by renumbering section 2 to section 3 and adding a new section 2 setting forth the effect of underscoring in the bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 627, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 627, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.
Senator Carroll did not concur.

SCRep. 55 Economic Development on S.B. No. 629

The purpose of this bill is to increase the maximum capital loan limit from \$50,000 to \$100,000.

Your Committee finds that increasing the maximum loan for the Hawaii Capital Loan Program from \$50,000 to \$100,000 would be in line with the increase in the cost of doing business in Hawaii and will provide the necessary flexibility to the program in assisting small businesses.

Your Committee has made technical changes to the bill by renumbering section 2 to section 3 and adding a new section 2 setting forth the effect of underscoring and bracketing in the bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 629, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 629, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator George.

SCRep. 56 Economic Development on S.B. No. 529

The purpose of this bill is to appropriate funds over a period of two years to begin the planning and implementation of a five-year fish aggregation system program which will include the anchoring of twenty-six aggregation buoys at selected sites statewide, together with close monitoring of the fish catches in the buoy areas.

The success of the experimental fish aggregating project conducted by the National Marine Fisheries Service in increasing commercial and recreational fish production has been widely acclaimed. Strong endorsement of the program was received from fishermen throughout the State citing increased fish catches around the existing buoys and emphasizing the need for more buoys. In addition, a report was submitted by Dr. Stanley Swerdloff, Project Manager for the Fisheries Master Plan, which indicated that of the total cannery landings of 5,290,080 pounds of aku in 1977-78, 20 per cent or 1,138,545 pounds of aku were caught in the buoy areas. The report also stated that the results of commercial aku boat activities around the buoys have been extremely encouraging in increasing the average catch-per-boat-per-day, and reducing time lost in scouting for fish schools.

Your Committee amended section 2 of the bill by changing the appropriation from \$337,700 to \$135,000 and by including a provision to allow the chairman of the board of land and natural resources to hire temporary staff without regard to the civil service law.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 529, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 529, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator George.

SCRep. 57 (Majority) Education on S.B. No. 117

The purpose of this bill is to conform the Hawaii Revised Statutes to the Hawaii State Constitution as amended by the Constitutional Convention of 1978 and ratified by the electorate on November 7, 1978.

At the public hearing, testimony by the Chairman of the Board of Education indicated that the Board supports the purpose of this bill.

This bill amends Chapters 11, 12, 13, 17, and 296, Hawaii Revised Statutes by:

- (1) providing thirteen instead of eleven board members;
- (2) providing two school board districts. The first school board district will have ten members; one will be elected from the Honolulu district, one will be elected from the Central Oahu district, one will be elected from the Leeward Oahu district, and one will be elected from the Windward Oahu district. The remaining six members will be elected at large in the first school board district. The second school board district will have three members; one will be elected from the Hawaii district, one will be elected from the Maui district, and one will be elected from the Kauai district;
- (3) providing that members shall be elected in a nonpartisan manner, with their names arranged on the ballot alphabetically;
- (4) providing that the members are elected at the general election;
- (5) providing that any vacancy on the Board shall be filled by appointment by the Governor for the unexpired term without consideration of the appointee's party preference or nonpartisanship;
- (6) removing the office of the Board of Education as one of the definitions in the Hawaii Revised Statutes for a political party;
- (7) providing that candidates rather than political parties shall submit names for precinct officials to the chief election officer;
- (8) changing the name of the district school advisory councils to departmental school district advisory councils, with the members appointed without consideration of their party preference or nonpartisanship, and conforming the remaining references

to departmental school districts.

Your Committee has amended this bill by providing that no person shall be eligible for election to the Board unless he is a registered voter of the district from which he is to be elected, and if he is being elected from a departmental school district, a resident of that departmental school district. In addition, the bill has been amended to provide that the school board shall be elected at, one election, the general election, with their names arranged alphabetically in a nonpartisan manner. Other sections have been amended to conform the bill to the procedures required for electing Board of Education members at a general election. The last section of the bill has been re-numbered because the section which repeals Section 13-4 has been moved to follow Section 13-3, to provide greater ease in following the changes being made by this bill.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 117, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 117, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.
Senator Ushijima did not concur.

SCRep. 58 Human Resources on S.B. No. 250

The purpose of this bill is to make an appropriation to support the operations of the four Community Action Agencies in the State of Hawaii (Hawaii County, City and County of Honolulu, Kauai County, and Maui County).

These Community Action Agencies are private non-profit organizations established to help alleviate the problems of the poor in the State of Hawaii by coordinating services for the poor to attain skills, knowledge, and opportunities for self-help in improving their quality of life. The funding for these agencies was established through a partnership between federal, state and local governments.

Your Committee finds that the mandated increase in non-federal matching requirement and increasing cost of operations due to the increase in cost of living have caused the Community Action Agencies to reach a difficult point in operating capacity because of insufficient funds.

Your Committee further finds that it is essential to maintain program effort in order to provide those services currently being offered to the low-income families greatly needing them.

Your Committee recommends that \$430,000 be appropriated to support the operations of the agencies. The total shall be allocated in the following manner: \$98,000 to Hawaii County Economic Opportunity, \$184,000 to Honolulu Community Action Program, \$10,000 to Honolulu Community Action Program Director's Association, \$46,000 to Kauai Economic Opportunity, and \$92,000 to Maui Economic Opportunity. The amounts allocated shall be reduced by the amount of federal monies available in each instance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 250 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. 59 (Majority) Human Resources on S.B. No. 375

The purpose of this bill is to grant civil service status to the non-policy-making staff researcher in the Office of Collective Bargaining. This action will place all employees in the Office of Collective Bargaining, except the Chief Negotiator and the Deputy, under the provisions of Chapters 76 and 77, (Civil Service Law), Hawaii Revised Statutes.

Your Committee finds that the duties of the staff researcher do not include making decisions on policy. Rather, the position is basically concerned with the gathering and analysis of data to assist the decision-makers in reaching timely and appropriate decisions.

Your Committee further finds that it is important to have competent and professional non-policy making employees in the Office of Collective Bargaining. To attract and hold such personnel, employment security under Chapters 76 and 77 is an integral condition. Such employment security is needed to assure continuity of adequate, effective staff support to the policy-makers in labor relations within the public sector.

Your Committee has made technical amendments to the bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 375, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 375, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 60 (Majority) Human Resources on S.B. No. 1722

The purpose of the bill is to appropriate monies to fund all collective bargaining cost items in the agreements negotiated with the exclusive bargaining representative of collective bargaining units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 13 for the fiscal biennium 1979-1981.

Part I provides funds to Program Planning, Analysis, Budgeting (BUF 101), to be allotted by the Director of Finance, for all collective bargaining cost items negotiated with bargaining representatives of all the aforementioned bargaining units. Part II provides funds to Administrative Director Services (JUD 201), to be allotted by the Administrative representatives of bargaining units 1, 3, 4, 9, 10, and 13. Part III provides for payment of salary increases by federal, special or other funds, depending upon the funding source of an employee's compensation.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1722 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 Abercrombie did not concur.

SCRep. 61 Human Resources on S.B. No. 1742

The purpose of this bill is to appropriate funds for adjustments authorized by chapter 89C for state officers and employees excluded from collective bargaining.

Part I provides funds to Program Planning, Analysis, Budgeting (BUF 101), to be allotted by the Director of Finance, for adjustments authorized by chapter 89C for state officers and employees (other than those covered in Part II of the Act) excluded from collective bargaining. Part II provides funds to Administrative Director Services (JUD 201), to be allotted by the Administrative Director of the Courts, for adjustments authorized by chapter 89C to be made by the chief justice for officers and employees excluded from collective bargaining. Part III provides for payment of cost adjustments by federal, special or other funds, depending upon the funding source of an employee's compensation.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. 1742 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. 62 Health on S.B. No. 137

The purpose of this bill is to implement Article VII, Section 12 of the Constitution of the State of Hawaii as amended by the Hawaii Constitutional Convention of 1978 and pertaining to the authorization for the issuance of special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public.

This bill establishes a means whereby counties are authorized to issue special purpose revenue bonds to finance facilities of or for, or to loan the proceeds of such bonds to assist, not-for-profit corporations that provide health care facilities to the general public.

This bill, originally in short form, was amended by your Committee by the insertion of the necessary enabling provisions for counties to issue special purpose revenue bonds.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 137, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 137, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 63 (Joint) Education and Housing and Hawaiian Homes on S.B. No. 151

The purpose of this Act is to conform the Hawaii Revised Statutes to the Hawaii State Constitution effected by the Constitution Convention of 1978. The pertinent language of Article X to which such conformance is addressed by this Act reads as follows:

"HAWAIIAN EDUCATION PROGRAM

Section 4. The State shall promote the study of Hawaiian culture, history and language.

The State shall provide for a Hawaiian education program consisting of language, culture and history in the public schools. The use of community expertise shall be encouraged as a suitable and essential means in furtherance of the Hawaiian education program."

In reviewing the Committee of the Whole Report No. 12 of the Constitutional Convention your Committee on Education and Committee on Housing and Hawaiian Homes believes the role of community expertise should not be limited to only resource personnel and that of educational assistants, but should be expanded by rules established by the board of education.

To achieve these purposes S.B. 151, a short form bill, has been provided with the necessary text.

Your Committee on Education and Committee on Housing and Hawaiian Homes are in accord with the intent and purpose of S.B. No. 151, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 151, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Senator Kawasaki.

SCRep. 64 Housing and Hawaiian Homes on S.B. No. 152

The purpose of this bill is to conform the Hawaii Revised Statutes to the actions of the Constitutional Convention of 1978. The pertinent language of Article XII, Article XVIII and Article XVI to which such conformance is addressed by this act reads as follows:

ARTICLE [XI] XII

"PUBLIC TRUST"

Section 4. The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7, of the State Constitution, excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended, shall be held by the State as a public trust for native Hawaiians and the general public.

OFFICE OF HAWAIIAN AFFAIRS:
ESTABLISHMENT OF BOARD OF TRUSTEES

Section 5. There is hereby established an Office of Hawaiian Affairs. The Office of Hawaiian Affairs shall hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for native Hawaiians and Hawaiians. There shall be a board of trustees for the Office of Hawaiian Affairs elected by qualified voters who are Hawaiians, as provided by law. The board members shall be Hawaiians. There shall be not less than nine members of the board of trustees; provided that each of the following Islands have one representative: Oahu, Kauai, Maui, Molokai and Hawaii. The board shall select a chairperson from its members.

POWERS OF BOARD OF TRUSTEES

Section 6. The board of trustees of the Office of Hawaiian Affairs shall exercise power as provided by law: to manage and administer the proceeds from the sale or other disposition of the lands, natural resources, minerals and income derived from whatever sources for native Hawaiians and Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in section 4 of this article for native Hawaiians; to formulate policy relating to affairs of native Hawaiians and Hawaiians; and to exercise control over real and personal property set aside by state, federal or private sources and transferred to the board for native Hawaiians and Hawaiians. The board shall have the power to exercise control over the Office of Hawaiian Affairs through its executive officer, the administrator of the Office of Hawaiian Affairs, who shall be appointed by the board.

ARTICLE [XVI] XVIII

SCHEDULEEFFECTIVE DATE FOR OFFICE
OF HAWAIIAN AFFAIRS

Section 8. The Legislature shall provide for the implementation of the amendments to Article XII in Sections 5 and 6 on or before the first general election following ratification of the amendments to Article XII in Sections 5 and 6.

ARTICLE [XIV] XVI

GENERAL AND MISCELLANEOUS PROVISIONS

COMPLIANCE WITH TRUST

Section [8.] 7. Any trust provisions which the Congress shall impose, upon the admission of this State, in respect of the lands patented to the State by the United States or the proceeds and income therefrom, shall be complied with by appropriate legislation. Such legislation shall not diminish or limit the benefits of native Hawaiians under Section 4 of Article XII.

In essence, the chapter relating to the Office of Hawaiian Affairs seeks to insure that the Hawaiian people, through the Office of Hawaiian Affairs, can determine their avenues, methods and goals which will result in the betterment of their condition.

The Committee on Housing and Hawaiian Homes has considered the general operating environment conditions, such as: legal, political, economic, demographic and cultural conditions, which the Office of Hawaiian Affairs will be operating in and has provided the office flexibility and independence needed to be efficient and in time of rapid change, creative and responsive.

To achieve these purposes S.B. No. 152, a short form bill has been provided with the necessary text. Much of the text from S.B. No. 1458 has been extracted and amended for the purposes of S.B. No. 152. Unfortunately, the legal questions that exist with S.B. No. 1458 also apply to S.B. No. 152, S.D. 1.

Your Committee on Housing and Hawaiian Homes has requested a legal opinion from the attorney general with respect to the following questions on S.B. No. 1458.

- (1) Is the bill, if enacted, or any part of it, subject to Congressional approval under the Hawaiian Homes Commission Act?
- (2) Is the Office of Hawaiian Affairs established in the Act (see sections 3 and 4) of a governmental agency? If so, is it considered a department for purposes of the limit of number of departments in the State Constitution?
- (3) If the Office of Hawaiian Affairs is not a governmental agency but a private nonprofit corporation:
 - (A) Is item (9) under the Administrator's powers and duties (page 5) legally proper?
 - (B) Are provisions giving the Administrator State benefits (page 9, line 20-21) legally proper?
 - (C) Are provisions for the State Director of Finance to handle the Office of Hawaiian Affairs' financial matters (section 18, page 10) legally proper?
- (4) Does section 4 (pages 2 to 3) set forth the public land trust from which the proceeds and income shall come with sufficient specificity? If not, could it be set forth with greater specificity and would you please provide the proper language?

Your Committee on Housing and Hawaiian Homes has wrestled with the problem of board district construction and apportionment and has yet to resolve it.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 152, and recommends that it pass First Reading by title, in the amended form attached hereto as S.B. No. 152, S.D. 1, be printed and be referred to the Committee on Judiciary for further considerations.

Signed by all members of the Committee.

SCRep. 65 Health on S.B. No. 295

The purpose of this bill is to implement Article VII, Section 12 of the Constitution of the State of Hawaii as amended by the Hawaii Constitutional Convention of 1978 and pertaining to the authorization for the issuance of special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public.

This bill establishes a means whereby the State is authorized to issue special purpose revenue bonds to finance facilities of or for, or to loan the proceeds of such bonds to assist, not-for-profit corporations that provide health care facilities to the general public.

This bill, originally in short form, was amended by your Committee by the insertion of the necessary enabling provisions for the State to issue special purpose revenue bonds.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 295 and recommends that it pass First Reading by title, in the amended form attached hereto as S.B. No. 295, S.D. 1, be printed and be referred to the Committee on Judiciary for further consideration.

Signed by all members of the Committee.

SCRep. 66 Housing and Hawaiian Homes on S.B. No. 330

The purpose of this bill is to allow residential leasehold cooperative corporations to purchase the leased fee interest in the land underlying the apartment buildings through the eminent domain proceedings similar to those currently utilized under Chapter 516, H.R.S., for single family dwellings.

Your Committee has amended the bill to require that the authority transfer the leased fee title in the cooperative lot to the cooperative owner. Each tenant owner must meet certain qualifications to allow such a sale.

The provisions on extension of lease, zoning change, and rights to self-organization have been deleted. These provisions were modeled after provisions contained in Part III of Chapter 516.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 330, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 330, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 67 Health on S.B. No. 339

The purpose of this bill is to allow the Department of Health to enter into a written agreement with their employees to purchase for the employee an annuity contract from an insurer who holds a certificate of authority under Section 431-82.

The testimony presented by Mr. George Yuen, Director of the Department of Health, gave full support from the Department, stating that there would be no cost incurred by the Department of Health. Mr. Yuen stated the deferred compensation would help supplement retirement benefits.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 339 and recommends that it pass Second Reading and be referred to the Committee on Human Resources.

Signed by all members of the Committee.

SCRep. 68 Housing and Hawaiian Homes on S.B. No. 517

The purpose of this bill is to establish a Hawaiian Affairs advisory committee which shall advise the legislature of the nature of the administration, programs and activities the Office of Hawaiian Affairs should possess.

Your Committee amended the expending agency from the department of budget and finance to the legislative reference bureau and request that \$37,000 be appropriated for the purpose of this Act.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose

of S.B. No. 517, as amended herein and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.B. No. 517, S.D. 1.

Signed by all members of the Committee.

SCRep. 69 Housing and Hawaiian Homes on S.B. No. 690

The purpose of this bill is to transfer the duties of the Real Estate Commission in regard to the administration and enforcement of horizontal property regimes to a newly created condominium commission.

Your Committee received testimony in favor of the bill from the Waikiki Residents Association and the Council of Presidents. The Hawaii Association of Realtors and Chaney, Inc., presented testimony against the bill, stating that the bill would "create another layer of bureaucracy", and questioning the "real need for this new quasi-government agency." The State Real Estate Commission presented testimony stating "no objection to the passage of this bill."

Your Committee, recognizing the need for lay representation on State boards and commissions, respectfully requests the Committee on Consumer Protection and Commerce to review the necessity of this board, or more appropriately, the restructuring of the existing real estate commission for more lay representation, within the context of the current idiom of non-proliferation and sunset law.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 690 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 70 Housing and Hawaiian Homes on S.B. No. 1032

The purpose of this bill is to allow residential leasehold condominium owners to purchase the leased fee interest in the land underlying their condominium building through eminent domain proceedings under Chapter 516, HRS. Additionally, the bill provides a new part relating to the rights of condominium lessees, and limits lease rent increases on condominiums.

Your Committee received testimony from the Waikiki Residents Association, the Hawaii Council of Associations of Apartment Owners, and Chaney, Inc., in support of the intent of the bill. Senator John Carroll submitted testimony in favor of the concept of allowing leasehold condominium and cooperative owners to purchase the fee title to the land on which their apartments are located.

Chaney, Inc., urged that the "bill be deferred for consideration in the 1980 session ... [since] ... potential legal problems in the proposed acquisition ... will probably be mixed in the courts for years."

Your Committee received testimony from the Hawaiian Trust Company, Ltd., in objection to the bill. Essentially, the Company disputed various claims made in the legislative findings as being unsubstantiable. Additionally, the Company stated that the leasehold method of condominium development is a substitute form of financing which effectively lowers the current cost of home ownership, and will benefit mortgage lenders and "create a further shortage of housing."

Your Committee also received testimony in objection to the bill from Rhoda V. Lewis. Ms. Lewis stated that the constitutionality of the State's leasehold condemnation law is still untested, and disputed the legislative finding that there is a shortage of condominiums. Ms. Lewis stated that the legislature allowed the creation of leasehold condominiums, and suggested that a more prospective method of dealing with this alleged problem would be to ban leasehold condominiums as other states have done, or to require that an option to purchase the fee be included in all future condominiums. Ms. Lewis also noted that the "mincemeat" splitting of fee interests which may occur in allowing certain lessees to purchase fee title, while others may not qualify or not wish to purchase the fee title, is a potential problem. Additionally, Ms. Lewis offered numerous amendments to the bill in her lengthy testimony.

Your Committee has substantially amended the bill. The original bill established a new chapter for this program; this draft incorporates these provisions into the existing chapter on condemnation of single family lots to eliminate unnecessary statutory duplications.

Condemnation proceedings would be initiated if more than fifty per cent of the lessees

petitioned the Hawaii Housing Authority; the Authority would condemn the leased fee interest in the condominium project lot, and sell prorated interests in the leased fee title to individual condominium owners. The association of apartment owners of the condominium would be required to purchase the balance of the leased fee interest not purchased by individual unit owners.

Provisions regarding revenue bonds for this program have been deleted; your Committee is undertaking a review of housing revenue bonds under a separate bill for other housing programs, and will investigate the applicability and necessity of bonds for this program under that vehicle.

Your Committee has deleted the provision limiting lease rent increases on condominiums. Your Committee feels that this provision will have a substantial impact on the development of new residential condominiums, and may cause serious increases in housing costs. Your Committee, therefore, has deleted this idea for future disposition.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 1032, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1032, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 71 Housing and Hawaiian Homes on S.B. No. 1487

The purpose of this Act is to provide for the election of the Board of Trustees for the Office of Hawaiian Affairs.

To achieve this purpose, S.B. No. 1487, a short form bill, has been provided with the necessary text.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 1487 and recommends that it pass First Reading by title, in the amended form attached hereto as S.B. No. 1487, S.D. 1, be printed and be referred to the Committee on Judiciary for further consideration.

Signed by all members of the Committee.

SCRep. 72 Economic Development on S.B. No. 641

The purpose of this bill is to provide funds necessary for the plans and construction of the Kahoma Stream Flood Control Project, County of Maui.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 641 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. 73 Economic Development on S.B. No. 687

The purpose of this bill is to promote and encourage the widespread use of solar energy systems and to protect and facilitate adequate access to the sunlight which is necessary to operate solar energy systems.

This bill will create a separate body of law which has as its purpose the creation and definition of rights to solar access.

Your Committee on Economic Development finds that the use of solar energy systems will contribute to the reduction of the State's dependence on nonrenewable fossil fuels, supplement existing energy sources, and decrease the air and water pollution which results from the use of conventional energy sources. Your Committee also finds that it should be the policy of the State to encourage the use of solar energy systems.

Your Committee further finds that at least one law suit--*Siu v. McCully-Citron Co., Ltd.*, Civil No. 56045--has resulted in one circuit court judge finding that persons who have purchased solar water heating systems and other solar systems have no legal rights to access to the sun.

Your Committee further finds that there is no section of the Hawaii Revised Statutes which addresses the rights and/or duties of persons who have purchased, or are purchasing,

systems dependent on solar energy.

Testimony presented at the public hearing for the most part favored passage of S.B. No. 687.

Reservations, however, were expressed regarding certain provisions of S.B. No. 687. Your Committee considered these reservations and has made the following amendments to the bill:

(1) The definition of "solar energy system" used on page 3, line 21, through page 4, line 8, of the bill as referred to this Committee was replaced and expanded to include the following devices included in the Federal Comprehensive Energy Bill (A) recuperators, (B) heat wheels, (C) regenerators, (D) heat exchangers, (E) waste heat boilers, (F) heat pipes, (G) insulation, (H) double glazing, (I) heat pumps, (J) reflective glass coatings, (K) automatic energy control systems, (L) turbulators, (M) preheaters, (N) combustible gas recovery systems, and (O) economizers. This amendment allows for a broader definition of solar energy systems, which includes most, if not all, of the known uses of solar energy.

(2) In order to insure that there is no defect in the bill with respect to appropriateness of the bill title, section 5 (relating to tax credit) of the bill referred to this Committee was completely deleted and sections 5 and 6 were renumbered to reflect the deletion.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 687, as amended herein, and recommends that it be referred in the form attached hereto as S.B. No. 687, S.D. 1, to the Judiciary Committee.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 74 Ways and Means on S.B. No. 1369

Your Committee on Ways and Means begs leave to report that it has considered said bill and recommends that it pass First Reading by title in the form attached hereto as S.B. No. 1369, S.D. 1, be printed and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 75 (Joint) Health and Higher Education on S.B. No. 495

The purpose of this bill is to establish a continuing nursing education fund to support the Continuing Education Approval and Recognition Program (CEARP) and all other activities related to continuing nursing education.

Testimony was received by the Board of Nursing, School of Nursing - University of Hawaii and the Hawaii Nurses Association in support of this bill. It was also pointed out that the Continuing Education Approval and Recognition Program (CEARP) established and funded by the 1975 Legislature has never received monetary state support since 1976, and has been sustained through funds from the Hawaii Nurses Association.

Your Committees have amended this bill to grant to the State Board of Nursing the power to administer the funds collected from fees under Chapter 457, and to allocate money from these funds to the continuing nursing education fund and for expenses incurred by the department of regulatory agencies to implement sections 457-7, 457-8 and 457-9, H.R.S.

We are in accord with the increase of fees collected from licensure, reexamination and renewal of licenses for the purpose of this fund, and which was also supported by the organizations that presented testimony.

Your Committees on Health and Higher Education are in accord with the intent and purpose of S.B. No. 495, as amended herein and recommends that it pass First Reading in the form attached hereto as S.B. No. 495, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committees except Senators Cayetano and Ajifu.

SCRep. 76 Intergovernmental Relations on S.B. No. 26

The purpose of this bill is to implement Article VIII of the State of Hawaii as amended by the Hawaii Constitutional Convention of 1978 and pertaining to State Mandates.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose

of S.B. No. 26 and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator George.

SCRep. 77 Intergovernmental Relations on S.B. No. 289

The purpose of this bill is to implement the amendments to Article VIII, Section 5, of the State Constitution concerning state mandates.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 289 and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator George.

SCRep. 78 Intergovernmental Relations on S.B. No. 292

The purpose of this bill is to implement the amendments to Article VII, Sections 12 and 13, concerning the issuance of county bonds and the certifications of indebtedness.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 292 and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator George.

SCRep. 79 Intergovernmental Relations on S.B. No. 25

The purpose of this bill is to transfer real property taxation powers and functions from the State to the counties as mandated by the recent Constitutional Amendment which specified:

- a. All functions, powers, and duties relating to the real property tax are to be exercised exclusively by the Counties.
- b. County powers over the real property tax and its administration are to be exercised effective July 1, 1981.
- c. Assessment policies and methods shall be adopted by County ordinances before July 1, 1981, and must be uniform for eleven years from the date of ratification.
- d. Exemptions and deductions now provided by law shall be enacted by ordinances and cannot be eliminated or diminished for eleven years from the date of ratification, although increases or additions are allowed.

Your Committee has reviewed testimony indicating that the Hawaii State Association of Counties has assumed primary responsibility for planning and implementing a smooth transition. They conclude that no implementing legislation is required by the Constitution.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 25 and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Ajifu and George.

SCRep. 80 Intergovernmental Relations on S.B. No. 293

The purpose of this bill is to implement the provisions of Article VII, section 12, of the state constitution to authorize counties to issue special purpose revenue bonds.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 293 and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Ajifu and George.

SCRep. 81 Intergovernmental Relations on S.B. No. 290

The purpose of this bill is to transfer real property taxation powers and functions from the State to the counties as mandated by the recent Constitutional Amendment which specified:

- a. All functions, powers, and duties relating to the real property tax are to be exercised exclusively by the Counties.
- b. County powers over the real property tax and its administration are to be exercised effective July 1, 1981.

- c. Assessment policies and methods shall be adopted by County ordinances before July 1, 1981, and must be uniform for eleven years from the date of ratification.
- d. Exemptions and dedications now provided by law shall be enacted by ordinances and cannot be eliminated or diminished for eleven years from the date of ratification, although increases or additions are allowed.

Your Committee has reviewed testimony indicating that the Hawaii State Association of Counties has assumed primary responsibility for planning and implementing a smooth transition. They conclude that no implementing legislation is required by the Constitution.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 290 and recommends that it pass First Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Ajifu and George.

SCRep. 82 Legislative Management

Informing the Senate that S.C.R. Nos. 33 to 36, S.R. Nos. 173 to 185 and Stand. Com. Rep. Nos. 43 to 81 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 83 (Majority) Human Resources on S.B. No. 46

The purpose of this bill is to implement Article XVI (General and Miscellaneous Provisions), Section 3 (Disqualifications from Public Office or Employment) of the Constitution of the State of Hawaii as amended by the Hawaii Constitutional Convention of 1978.

Your Committee finds that Article XVI, Section 3, provides that no person will be prevented from holding public office or employment unless he has been convicted of any act, attempt, or conspiracy to overthrow the state or the federal government by force or violence. Passage of this bill will conform the Hawaii Revised Statutes to the amendment made by the Hawaii Constitutional Convention of 1978 by amending Section 831-3.1 to provide that among other things, a person shall not be disqualified to practice, pursue, or engage in any occupation, trade, vocation, profession, or business for which a permit, license, registration, or certificate is required by the State or any of its political subdivisions or agencies, unless he has been convicted of the subversive activities in Section 3; and by amending Section 831-2 to provide that any person convicted of any act, attempt, or conspiracy to overthrow the state or the federal government by force or violence shall not hold public office or employment.

Your Committee has made technical amendments to the bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 46, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S. B. No. 46, S.D. 1, and be referred to the Committee on the Judiciary.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 84 Human Resources on S.B. No. 399

The purpose of this bill is to correct typographical errors in Act 107/78 (Adult Family Boarding Homes and Care Homes; Licensing and Regulation).

This bill corrects typographical errors in Section 321-15.6 as follows:

- (1) The "department of social services and housing" is the appropriate agency instead of the "department of health."
- (2) "Care Home" is the appropriate term instead of "adult family boarding home."

Your Committee has made technical amendments to the bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 399, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 399, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 85 Human Resources on S.B. No. 431

The purpose of this bill is to amend Section 76-23, Hawaii Revised Statutes to permit a regular civil service employee to be promoted non-competitively to a vacant position in a class related to the employee's current class, although both classes may be in non-related series.

Present law permits non-competitive position movements from one class to another class in the same or related series.

For example, the class, Clerk III, SR-8, is found in the Clerk series and the class, Clerk-Typist III, SR-10, is in the Clerk-Typist series, which are related series. Therefore, under current law, an employee who is a Clerk III, SR-8, may be non-competitively promoted to Clerk-Typist III, SR-10, because the Clerk series is related to the Clerk-Typist series. Under this bill, Clerk III, SR-8, may be non-competitively promoted to Unemployment Insurance Assistant III, SR-9, because the classes are related although in non-related series.

Your Committee finds that greater career development opportunities would arise from increased opportunities for regular employees to be non-competitively promoted under this bill. Such opportunities for upward mobility would serve as incentives to employees and would create a job environment conducive to the attraction, development and retention of a capable and competent workforce.

Your Committee has made technical amendments to the bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 431, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 431, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 86 Human Resources on S.B. No. 436

The purpose of this bill is to authorize the establishment of a deferred compensation plan for public officers and employees of the State and counties.

Deferred compensation is basically a plan whereby employees authorize their employer to defer a portion of their gross pay before taxes and pay these monies to them upon retirement, when they would most likely be subject to a lower tax burden. These deferred monies are not taxed until the employees actually receive them. Participation is strictly voluntary, and the employer makes no contribution to the plan. Deferred compensation plans would not affect already existing retirement plans or social security benefits, but would provide an additional income to participating officers and employees when they retire.

Deferred compensation for the public sector is a relatively recent phenomenon and has become, in recent years, an increasingly popular "non-cost" fringe benefit offered to public employees in other states, for example - California, Utah, Delaware, Arizona, Maryland, Kentucky, Alabama, Texas, Nebraska, Iowa, Oklahoma, No. Carolina, No. Dakota, and others.

Your Committee has heard testimony as to the impact on State tax revenues if State taxes were to be deferred by S.B. No. 436. Your Committee has amended S.B. No. 436 to delete any reference to deferral of State taxes, therefore, providing deferral of only federal taxes as provided by the Internal Revenue Code of 1954. Further, stylistic changes and amendments were made to bring S.B. No. 436 into compliance with the Revenue Act of 1978, which added Section 457 to the Internal Revenue Code of 1954.

Your Committee believes that a deferred compensation plan for public officers and employees will have direct benefits to the State by reducing the federal tax burden upon employees, thus reducing the flow of State monies to the federal government and retaining them in the local economy. Further, the deferred monies would flow into companies licensed in the State to provide investment options permitted by the deferred compensation plan which would generate additional State tax revenues from these companies.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 436 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 436, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 87 Human Resources on S.B. No. 539

The purpose of this bill is to provide \$106,327 for the continuation of Lanakila Rehabilitation Center's Wahiawa work activity program for severely disabled adults.

Your Committee finds that the Center provides a day program for approximately 50-75 disabled adults who have limited vocational rehabilitation potential. This program, which deals with a group that is not served by the Division of Vocational Rehabilitation of the Department of Social Services, nor by the Waimano Training School and Hospital, prepares these disabled individuals for more advanced work evaluation and training programs, with an eventual goal of economic independence and gainful employment in mind. It is the only such program for the Central Oahu area, and discontinuation would leave the clients without a program.

Your Committee further finds that federal funding which supported the program for its first two years will end on September 29, 1979, and state funds will be necessary to continue this program.

Your Committee has amended this bill by specifying dollar figures to be expended in FY 1979-1980 and FY 1980-81, and by designating the Department of Health rather than the Department of Social Services and Housing as the expending agency.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 539, as amended herein, and recommends that it pass Second Reading in the form attached hereto, as S.B. No. 539, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 88 Human Resources on S.B. No. 601

The purpose of this bill is to allow the Commission on Manpower and Full Employment to employ personnel hired with federal funds, under the Federal Vocational Act of 1963, as amended, on an exempt basis.

Your Committee finds that the Commission is authorized to act as the State Advisory Council on Vocational Education to comply with the Federal Vocational Act of 1963. Federal law requires each state to establish a State Advisory Council in order to be eligible for federal vocational education funds and provides an annual grant to provide staffing for the Council's federally-mandated activities.

Your Committee further finds that federal law does not require the Council to hire staff under civil service in order to receive funding. Enactment of this bill would enable the Commission to adjust personnel needs according to the annual grant funding level and would free the State of any obligation to continue the staffing should the federal funding end. The Commission could avoid difficulties in relocation of personnel or in staff adjustments due to changing federal guidelines by hiring personnel on an annual renewable exempt basis.

Your Committee has made technical amendments to this bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 601, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 601, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 89 Human Resources on S.B. No. 615

The purpose of this bill is to allow reemployment of pensioned patients at Kalaupapa Settlement without loss of their pensions or other benefits.

Your Committee finds that present law does not contain any provisions regarding reemployment of these retired patient employees. Kalaupapa's isolation often makes it difficult to recruit qualified persons to fill vacancies in civil service positions. Some of these positions, however, could be filled by patient employees on a part-time basis. These residents patients are a readily available source of manpower, but a majority of them are retired from patient employment positions which they held and are now receiving life-time pensions from the State. Some of these retirees are tired of being idle and would consider returning to work, provided they would not be required to relinquish their pensions.

Your Committee further finds that enactment of this bill would help meet Kalaupapa's manpower requirement while also enabling those retirees who wish to be productive to be reemployed on a part-time basis without having to relinquish their pensions.

Your Committee has made technical amendments to this bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 615, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 615, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 90 Human Resources on S.B. No. 666

The purpose of this bill is to establish a statutory basis for the recovery of overpayments of public assistance and to permit the Director of the Department of Social Services and Housing to waive recovery of overpayments in cases of bona fide hardship or where costs of recovery exceed the amount to be recovered.

Your Committee finds that present statutory authority to recover overpayments is unclear, except in a few cases where the overpaid recipient is convicted of fraud and restitution is ordered by the courts. The lack of clear statutory authority to enforce recovery of overpayments results in a considerable loss of public assistance dollars.

This bill provides the statutory authority for the Department to recover all overpayments to the extent allowed by Federal regulations; furthermore, it allows the Department to waive recovery of overpayments in cases of hardship or where the costs of recovery exceed the anticipated amount of collection.

Your Committee has made a technical amendment without changing the substance of this bill.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 666, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 666, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 91 Human Resources on S.B. No. 750

The purpose of this bill is to appropriate \$280,635 to be expended by the Hawaii Office of Economic Opportunity for transportation of the elderly, disabled, handicapped, and other disadvantaged persons, including preschool children on Kauai, Maui, and Hawaii.

Your Committee finds that there is a lack of adequate transportation for the elderly, disabled, handicapped, and other disadvantaged persons, which makes them unable to take advantage of services and activities that are otherwise available to them. This situation is especially apparent on the neighbor islands where public transportation is limited. The Offices of Economic Opportunity on the neighbor islands have been the sole sources of transportation for the handicapped and have also delivered specialized transportation services to other disadvantaged groups, including preschool children.

Your Committee recommends that a total of \$280,635 be appropriated and expended by the Hawaii Office of Economic Opportunity to support these transportation services. The total shall be appropriated in the following manner: \$100,000 to Hawaii County Economic Opportunity, \$97,500 to Maui Economic Opportunity, and \$83,135 to Kauai Economic Opportunity.

Your Committee has amended this bill to provide that any unexpended or unencumbered balance of any appropriation made by the Act as of the close of business on June 30, 1981, shall lapse into the general fund.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 750, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 750, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 92 Human Resources on S.B. No. 791

The purpose of this bill is to appropriate out of the general revenues of the State of

Hawaii \$101,873 to continue the coordinated day activity at Lanakila Rehabilitation Center to provide training for 50 to 75 severely disabled adults living in the Kalihi-Palama area.

Your Committee finds that the current program has been operating for four years, providing necessary training which would otherwise not be available to these disabled persons. Such severely handicapped do not qualify for deinstitutionalization programs, as they have never been residents of Waimano Training School and Hospital; nor do they qualify for Division of Vocational Rehabilitation Services under the Department of Social Services and Housing due to their limited employment potential.

Your Committee further finds that approximately ten people are currently waiting to receive this type of training. Upon attaining age twenty, those enrolled in special education classes will not be eligible for services provided by the Department of Education; consequently, it is expected that this waiting list will double in June, 1979.

Your Committee has made amendments to this bill to reflect that the Department of Health, rather than the Department of Social Services and Housing shall be the expending agency.

The sum appropriated shall be for the biennium: \$49,695 for FY 79-80, and \$52,178 for FY 80-81.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 791, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 791, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 93 Human Resources on S.B. No. 914

The purpose of this bill is to add asbestos and other substances with carcinogenic properties to the list of substances and forms of radiation which are exempt from the time limitation on claims for compensation under the workers' compensation law, Section 386, HRS.

Your Committee believes that it is proper to exempt certain substances, such as asbestos, from the two-year time limit on claims for compensation because the injuries caused by exposure to such substances are often not apparent for several years. There is concern though about the phrase, "or other mineral or substance with carcinogenic properties", in that its meaning could be construed in a way that would take it beyond the intent of the exemption provision. The purpose of the provision is to exempt those substances which are known to be injurious to health, and are known to be associated with occupational environments. The purpose is not to exempt those substances which are not yet known to be injurious to health, or are not associated strictly with occupational environments. Your Committee therefore has deleted the proposed amendment regarding "other substances..." and retained the exemption for asbestos which is a specific substance with known carcinogenic properties, and is known to be associated with occupational environments.

Your Committee has further made technical amendments to this bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 914, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 914, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 94 (Majority) Human Resources on S.B. No. 1282

The purpose of this bill is to amend Section 383-141 of the Hawaii Employment Security Law by charging claimants who make fraudulent claims for benefits with a misdemeanor if the benefits paid are less than \$200 and with a class C felony if benefits paid are \$200 or more.

Currently, those individuals found to be making false statements or representations to obtain unemployment compensation are fined \$20 to \$200, or imprisoned up to 30 days. Your Committee finds that a more severe level of punishment is desirable, both for retribution and for its deterrent effect. Those who draw benefits from the unemployment insurance fund under false pretenses diminish the resources of the fund and in many circumstances, adversely affect the experience rating of their former employers. Your Committee feels that this bill will curtail the filing of fraudulent claims for unemployment benefits.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1282 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 95 (Majority) Human Resources on S.B. No. 1508

The purpose of this bill is to amend Section 88-74, Hawaii Revised Statutes, to provide that if a member retires after twenty years of credited service as a police officer, the member's retirement allowance shall be computed as if the member has reached age fifty-five, reduced for each year less than twenty-five years of credited service in accordance with factors of actuarial equivalence.

Your Committee finds that present law provides for police officers, firefighters and corrections officers a retirement allowance of 2.5% of average final compensation for each year of service, provided that the maximum retirement allowance for such a member shall not exceed 80% of his average final compensation. If the member has not attained the age of 55, his retirement allowance will be computed as though he had attained age 55 reduced in accordance with factors of actuarial equivalence adopted by the Board of Trustees upon the advice of the Actuary, provided that no such reduction shall be made if the member has at least 25 years of credited service of which the last five or more years prior to retirement is credited service as a police officer, firefighter or corrections officer.

Your Committee further finds that S.B. No. 1508 will allow a member to retire after 20 years of credited service as a police officer, with his retirement allowance computed as if he has reached age 55, reduced for each year less than 25 years of credited service in accordance with factors of actuarial equivalence. In essence, enactment of the bill will allow a police officer to retire after 20 years of service.

Your Committee further finds that the nature of a police officer's duty places great socio-physical strain upon him. Such strain over a period of years may affect productivity and effectiveness. Enactment of this bill would allow an infusion of "new blood" to the police force by vacancies created by members who choose the proposed retirement option.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1508 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 Abercrombie did not concur.

SCRep. 96 Human Resources on S.B. No. 1719

The purpose of this bill is to conform the salary of the Director of the Office on Aging to those of second deputies or second assistants to department heads; to amend Section 349-4 to state more clearly the role and duty of the Policy Advisory Board for elderly affairs and to permit the Board to determine whether or not to allow its ex-officio members voting privileges at board meetings; to amend Section 349-9 to allow each county to establish a county office on aging and a county council on aging pursuant to the Older Americans Act of 1965, as amended.

Your Committee finds that the salaried heads of other agencies and commissions in the Governor's office already receive compensation equal to that received by second deputy directors. The salary of the Director of the Office on Aging should conform to this level of compensation. In addition, the Policy Advisory Board for elderly affairs could function more effectively with the aid of clearly defined duties, as enumerated in section 2 of this bill.

Your Committee further finds that a statewide program for the elderly could better function and provide a greater number of services if each county is granted authorization to establish a county office on aging and a county council on aging, as provided in this bill, whereby each county would be responsible for implementation of provisions in the Older Americans Act of 1965, as amended.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1719 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. 97 Human Resources on S.B. No. 1720

The purpose of this bill is to amend Section 349, Hawaii Revised Statutes, to provide for an advocacy function on behalf of the institutionalized elderly, as mandated by amendments to the Older Americans Act. This function shall be undertaken by the Executive Office on Aging.

Your Committee finds that residents of long-term care facilities are the most vulnerable because of their total dependency on others to meet their physical, psychological and social needs. There is clearly a need for people to concern themselves with the quality of life experienced by these residents. As an advocate for all the elderly in the state, the Office on Aging can effectively act as a sounding board for residents, families, administrators, and employees to voice their concerns for the welfare of the elderly in long-term care facilities.

Your Committee further finds that such an advocacy program can function effectively if the Office on Aging is given access to long-term care facilities and their records as provided in this bill.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1720 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 Human Resources on S.B. No. 1737

The purpose of this bill is to provide a means to settle disputes when temporary total disability benefits are stopped.

Your Committee finds that under present law, the employer pays the temporary total disability benefits as accrued, unless the rights to the benefits are controverted by the employer. The statute does not provide adequate penalties when benefits are unilaterally terminated and is unclear as to when TTD benefits should be terminated and as to the rights of the worker should such termination occur.

This bill would require the employer who ceases payment of temporary total disability benefits to an injured employee because of medical stabilization or filing of a false claim, to notify the employee and the Director of the Department of Labor and Industrial Relations in writing of such termination at least two weeks before the last payment is made. The notification shall state the reason for termination of benefits and that if the employee is of the opinion that the employer unlawfully terminated benefits, the employee may make a written request to the department for a hearing. The department, upon receipt of such a request shall hold a hearing and render a decision as expeditiously as possible.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1737 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. 99 Judiciary on S.B. No. 5

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978, and is addressed to the establishment of twelve-member juries for serious criminal offenses.

S.B. No. 5 conforms with article I, section 14. It establishes the "right to trial by a jury of twelve members" for "serious crimes," and defines the latter as "any crime for which the defendant may be imprisoned for six months or more."

As simple as article I, section 14 and its implementation by S.B. No. 5 may appear, they warrant considerable clarification.

First of all, as a matter of background, article I, section 14 had been adopted by the Constitutional Convention of 1968 as article I, section 11. It was adopted as "the Hawaiian counterpart of the 6th Amendment to the United States Constitution" See State v. Shak, 51 Haw. 612 at page 615 (1970). It then read in pertinent part:

"In all criminal prosecutions, the accused shall enjoy the right to . . . an impartial

jury"

Secondly, the Hawaii supreme court decided State v. Shak, supra in 1970. In that case, the court said that "in interpreting it (article I, section 14 [formerly section 11]) we will look to the federal case law on the subject as a guide, pursuant to the expressed intent of the draftsmen of our constitution." State v. Shak, supra at page 615.

In State v. Shak, supra, the Hawaii supreme court, being guided by federal case law, ruled that the words "in all criminal prosecutions" did not extend the right of jury trial to criminal prosecutions of offenses which are "constitutionally petty" and are not "serious." That case involved four violations of traffic laws for which the defendant was fined \$85, his license suspended for ten days except as necessary for his work, and assessed three traffic penalty points.

The Hawaii supreme court there ruled that:

"Under the United States and Hawaii Constitutions, it is clear that defendant is not entitled to a jury trial, since the offense with which he is charged is constitutionally petty."

Thirdly, the Constitutional Convention of 1978 presented article I, section 14 to the people of Hawaii, which was adopted by the people and which reads in pertinent part:

"In all criminal prosecutions, the accused shall enjoy the right to a . . . trial by an impartial jury Juries, where the crime charged is serious, shall consist of twelve persons."

Unfortunately, the foregoing language of article I, section 14 would seemingly import the concept that a jury of less than twelve members would be allowed for less than serious offenses. However, having accepted without amendments the prior language of article I, section 11, and without comment upon the Hawaii supreme court's treatment of that previous language, the language of article I, section 14 is now properly interpreted to exclude jury trial for petty offenses in accordance with State v. Shak, supra.

To clarify the focus on the problem at hand: the line of demarcation between "serious" and "petty" offenses under State v. Shak, supra, and under federal case law is the line that divides those cases for which jury trial must be afforded and those that require no jury trial. The language of article I, section 14, on the other hand, uses that same line of demarcation to seemingly import division of cases requiring twelve member juries and those that require juries with lesser membership. This is the point of confusion.

Apparently, wrestling with the same problem, the judiciary cautioned in its testimony that the language of S.B. No. 5 "is subject to the interpretation that juries may consist of fewer than 12 persons where the crime charged is 'not serious,'" and suggests the following alternative language:

"When the accused in a criminal trial is entitled to a trial by jury, the jury shall consist of twelve persons."

The Judiciary's position is buttressed by the concern of the delegates to the Constitutional Convention at page 2 of the Committee of the Whole Report No. 15 expressing concern "over the possibility of any reduction in the size of the jury because it would have a detrimental effort on the fairness of the jury system."

The Judiciary also points out that their suggested language would better accommodate "further movement in the case law . . . as to what constitutes a serious crime."

It is your Committee's conclusion that the present confusion respecting the true import of the language of article I, section 14 must be dealt with legislatively. Central to that need for clarification is the public's right to know when a criminal defendant is to be deemed to have committed an offense of sufficient severity to require a jury trial.

Your Committee feels that S.B. No. 5 accomplishes the needed clarification. We have also concluded that we should not confuse the issue further by enacting statutory language that may appear in conflict with the expressed language of article I, section 14. Accordingly, S.B. No. 5 uses the "serious/petty" demarcation line to afford twelve member juries while keeping silent as to any right of jury trial for petty offenses. We expect that this committee report will provide the salutary result of clarifying the present status of the language of article I, section 14.

Finally, your Committee's choice of "any crime for which the defendant may be imprisoned for six months or more" as the demarcation point is based on Chelf v. Schnackenberg,

384 U.S. 373 (1966) cited with approval in State v. Shak, supra, at page 615. Also in that connection, the "six month" criteria conforms with prior Hawaii supreme court decisions in Ex Part Higashi, 17 Haw. 428 (1906) (one-year imprisonment) and Territory v. Taketa, 27 Haw. 844 (1924) (\$25 fine). The court ruled in Ex Parte Higashi, supra, that a jury trial must be afforded; and in Territory v. Taketa, supra, that one was not required.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 5, 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 Takitani and George.

SCRep. 100 Judiciary on S.B. No. 10

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of article II, section 7 to which conformance is addressed by this bill reads as follows:

"RESIGNATION FROM PUBLIC OFFICE

Section 7. Any elected public officer shall resign from that office before being eligible as a candidate for another public office, if the term of the office sought begins before the end of the term of the office held."

As amended by your Committee in the form of S.D. 1, S.B. No. 10 accomplishes the following:

(1) The deadline for filing resignations is established as forty-five days prior to the filing deadline for nomination papers. This will allow reasonable time for persons wishing to run for the office to be vacated to take the necessary steps. Failure to file such resignation within the deadline will disqualify such public officer.

(2) The state and county elected public offices on the one hand, and the federal elected public offices on the other, are differentially treated upon the concern that the State should not intrude upon the qualification requirements for federal offices. Accordingly, where the public office being sought is a state or county office, the requirement of resignation is imposed as a condition for qualification to that office; however, where the public office being sought is a federal office, the resignation from public office is imposed as arising upon the filing for nomination to that federal office and is imposed only upon state and county officers who would seek that federal office.

(3) The chief election officer is required to publish public notice of such resignation with "due speed" and begin preparation for the election to fill the vacated office.

(4) All resignations are made irrevocable upon submission so as to prevent the confusion that will occur if resignations are permitted to be withdrawn.

(5) A two-tier system is provided for resignations triggered by an initial resignation from public office. The scheme will allow a second public officer, who is prompted to resign his office by the published resignation of another, an additional five days from the publication of the initial resignation to file his own resignation to seek that other office. Your Committee considered establishing a three-tier system but considered its use to be too remote.

(6) A resignation is to take effect on the earliest of the following events: (a) when the term of office which the resigning public officer is seeking commences; or (b) when the office he has resigned is filled, or (c) on the day he may specify.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 10, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 10, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 101 Judiciary on S.B. No. 14

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article III, Section 12 to which conformance is addressed by this bill reads as follows:

"Every meeting of a committee in either house or of a committee comprised of a member or members from both houses held for the purpose of making decision on matters referred to the committee shall be open to the public."

Your Committee has amended S.B. No. 14 to place this provision in Section 92-10, Hawaii Revised Statutes, as that was concluded to be more appropriate to achieve the intended purpose.

Your Committee noted the intent that delegates to the Constitutional Convention indicated that all decision-making meetings of both houses of the legislature were currently open to the public by their respective rules, but concluded that the public's right to know was of such paramount importance as to deserve explicit constitutional recognition. Your Committee is in total agreement with that suggestion.

The delegates also recognized the need to require exceptions, however, and enumerated certain situations when the salutary concept might be abused. Your Committee, in this regard, has defined such exceptions essentially as suggested in Standing Committee Report No. 46 of the Constitutional Convention, except by the inclusion of the exception regarding "consultations with attorneys where premature public disclosures of information would adversely affect the State's interest."

The language of the additional exception was adapted from a provision of the Honolulu City Charter.

Finally, as organizational meetings, partisan caucuses, consultations with legislative attorneys, and considerations as to whether a particular subject matter will be abusive of a person's right to privacy would require appropriate procedural treatment by each house of the legislature, the legislature is mandated to prescribe appropriate rules.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 14, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 14, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 102 Judiciary on S.B. No. 1017

The purpose of this bill is to provide operating funds for the Justice for Victims program in the county of Hawaii. This program counsels victims of crime as to their rights under the Criminal Injuries Compensation Act.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1017, 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. 103 Judiciary on S.B. No. 1207

Your Committee heard testimony from representatives of Narconon Hawaii and the department of social services and housing. The department testified to the fact that the drug rehabilitation program at the Hawaii state prison has been run by Narconon since 1975, first on a volunteer basis, then being supported by CETA funds in 1978. The Narconon program has been helpful to the corrections division not only in providing a necessary program for the inmates, but also in that a requisite for receiving Law Enforcement Assistance Administration (LEAA) funds is that a drug/ alcohol treatment program must be established.

Testimony from Narconon Hawaii was in relation to the staffing of the program, the courses offered inmates and its successes. Concern was expressed by your Committee when it was learned that the methodology used by Narconon is based in part upon Scientology, as are certain of the course materials used in the program. Representatives of Narconon then submitted a report entitled "Regarding the Secular Status of Narconon", directed at similar questions brought up in other states where a Narconon program exists. After reading this report, your Committee is satisfied that Narconon is not an arm of Scientology, advancing religious doctrines. We refer specifically to an attorney general's opinion (Request No. 2W-055, August 18, 1976) from the state of Delaware, duplicated on page 9 of the aforementioned report. That opinion concludes that as far as Narconon Delaware is concerned, the program is "one which draws upon certain theories of L. Ron Hubbard in the area of communication and personal efficiency which as best as we can determine, are secular in nature. We do not see substantial and reliable evidence to conclude that

religious doctrine is being disseminated in the guise of a drug treatment program" (page 16).

Fay Fanning, public relations director for Narconon Hawaii, also stated that the present employees of the program are CETA hires and are not affiliated with Scientology in any way. As such, your Committee is satisfied of Narconon Hawaii's secular status.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1207 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. 104 Judiciary on S.B. No. 1288

The purpose of this bill is to appropriate moneys out of the general revenues of the State of Hawaii in the total sum of \$245,802.36 to compensate 216 victims and the providers of services to such victims under the Criminal Injuries Compensation Act.

The funds appropriated under this bill shall be deposited into the Criminal Injuries Compensation Fund to be used for payments by the Criminal Injuries Compensation Commission.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1288 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. 105 Judiciary on S.B. No. 1335

The purpose of S.B. No. 1335 is to provide for the establishment and operation of the investigations and narcotics control section of the department of the attorney general, and to remove the presently existing section from the department of health.

S.B. No. 1335 was amended to expand the purpose clause of the bill, by adding the section removing the investigations and narcotics control section from the department of health.

Your Committee also amended the bill to further define the purpose of the investigations and narcotics control section to be limited to controlled substance trafficking cases that pertain to pharmaceutical companies, pharmacists and medical practitioners. This was done after hearing testimony from the Honolulu Police Department that the broad language of S.B. No. 1335 would give leeway to the narcotics control section to investigate all aspects of drug abuse -which may duplicate or interfere with their work, especially street drug traffic. Your Committee felt such amendments would be appropriate, as the present function of the narcotics control section under the Department of Health is to investigate the diversion of legitimate drugs and the regulation of the dispensers of drugs such as hospitals, pharmacists, doctors and licensed drug firms.

Your Committee also noted that it may be necessary to amend the Uniform Controlled Substances Act to conform to the intent and purposes of this bill, should it become law.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1335, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1335, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 106 Judiciary on S.B. No. 1728

The purpose of S.B. No. 1728 is to require the court to determine which state agency should bear the transportation costs of defendants.

The attorney general has testified in favor of this bill. The judiciary has testified suggesting language which would require that the agency originating the request for transportation be made to bear the cost.

Your Committee observes that the ultimate source of payment is the same whether the order for payment is issued to the court or to any other requesting state agency. We are somewhat puzzled by the seeming inability of the attorney general's office and the

judiciary to have previously communicated toward obtaining a fair and workable solution to the problem addressed by S.B. No. 1728.

Nonetheless, your Committee has amended the original form of the bill to (1) include the costs of transporting correction officers; and (2) empower the courts to make judicious determination for the distribution of such costs among the courts and all other governmental agencies involved. It is your Committee's conclusion to rely upon the wisdom of the courts to obtain judicious resolution to the problem.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1728, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1728, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 107 Judiciary on S.B. No. 1730

The purposes of S.B. No. 1730 in its original form were to open the State Tort Liability Act to trial by jury and to disallow the court from awarding attorney's fees against the State in addition to the judgment.

Your Committee notes that the State Tort Liability Act was modeled from the Federal Tort Liability Act. The latter was drafted specifically to disallow jury trials on the theory that a governmental defendant, by virtue of its impersonal posture and seemingly limitless financial resources, may be vulnerable to the passions of juries being manipulated against it. The testimony of the attorney general indicates that the experience of its office suggested that a jury's judgment is preferred over that of our judges.

Your Committee feels that it would be a grave error to open the floodgates of jury passion to all cases under the State Tort Liability Act. Recognizing that claims under that act are essentially allowed sovereign dispensation, we conclude that jury trials should be availed only when the attorney general should conclude that the general resources of Hawaii's taxpayers may be made vulnerable to unfairness unless a jury trial was available to the State.

S.B. No. 1730 has been amended to allow a jury trial only when the State should demand it.

The original form of S.B. No. 1730 would have repealed section 662-12 governing attorney's fees on the theory that such repeal would discontinue the present practice by the judges of allowing attorney's fees in addition to judgments awarded in favor of plaintiffs.

S.B. No. 1730, S.D. 1 amends the original bill to make attorney's fees payable out of judgments awarded to plaintiffs, thus, treating the problem directly. However, such limitation is not applicable to attorney's fees and costs that the court may allow as sanctions against the attorney general. We would observe in that regard, that the office of the attorney general should uphold fairness in its treatment of Hawaii's people, even if they are opposing party litigants. This is because public confidence in the integrity and fairness of that office is paramount to our democratic process. Thus, your Committee concludes that it is necessary that the authority of the court to award sanctions against the attorney general and his staff should not be negated by implication. Such sanctions are to be allowed similarly as against all other party litigants whenever the conduct of the attorney general or his staff is deemed by the court to have unfairly required a party litigant to incur attorney's fees and costs.

Finally, S.B. No. 1730 has been amended to conform the State Tort Liability Act to the Federal Tort Liability Act by raising the maximum allowable attorney's fees (excepting sanctions) from twenty per cent to twenty-five per cent.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1730, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1730, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 108 Human Resources on S.B. No. 255

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii \$1,512,827 to expand pre-vocational, day activity training programs for the developmentally disabled adults beyond current service levels.

Your Committee finds that there is a need to expand programs for the training of developmentally disabled adults. Statewide services are currently being provided by eight private agencies. Clients in these programs are generally persons who do not possess the "employment potential" to qualify them for the services of the Division of Vocational Rehabilitation of the Department of Social Services and Housing.

Your Committee further finds that in November, 1978, approximately 165 individuals were on agency waiting lists. Without assured programs, it is expected that by the end of June, 1979, nearly 192 persons will be in need of training.

The lack of training services limits opportunities for these disabled adults to acquire self-care and vocational skills. Failure to provide training results in social isolation and increased dependency on the family; furthermore, it increases the probability that these individuals will be placed in State institutions or care homes. Expanded programs would provide much-needed opportunities for such individuals to develop skills necessary for self-sufficiency.

Your Committee has amended the bill to reflect the amount of money required for the training activities, and to designate the Department of Health, rather than the Department of Social Services and Housing as the expending agency.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 255, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 255, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 109 Human Resources on S.B. Nos. 242, 382, 387, 467, 821 and 1007

The purpose of these bills is to provide appropriations to various social service agencies throughout the State. Appropriated monies shall be used for plans and construction of facilities or for operations of these agencies, whichever instance is applicable.

Your Committee on Human Resources is in accord with the intents and purposes of the foregoing 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. 110 Human Resources on S.B. No. 454

The purpose of this bill is to provide \$30,000 for the continuation of the programs and services relating to child care and development offered by the Kauai Easter Seal Society.

Your Committee finds that the Kauai Easter Seal Society, operating under a contract with the Department of Health, is the only program on the island of Kauai which serves the developmentally disabled/delayed preschool children of Kauai. Funding for this program must be continued so that the needs of these children can be met.

Your Committee also finds that the proper expending agency is the Department of Health rather than the Department of Social Services and Housing, and has amended the bill accordingly.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 454, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 454, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 111 Human Resources on S.B. No. 665

The purpose of this bill is to facilitate the effective investigation of welfare fraud and other crimes relating to public assistance.

Your Committee finds that Section 346-4.5 ("Investigators; authority and access to records.") currently authorizes the Department of Social Services and Housing to have access to governmental records in locating absent parents, establishing paternity, and obtaining and enforcing child support obligations. However, the law is unclear as to the Department's rights of access to governmental records when investigating non-child-

support-related public assistance crimes.

Your Committee further finds that access to governmental records such as tax records indicating unreported employment or other sources of earnings, unemployment compensation, and police records indicating identity are critical in successfully eliminating public assistance crimes. A significant portion of tax dollars is being utilized for public assistance. Privacy acts and the desire to keep records confidential should not be used as tools for those who intentionally abuse public assistance for their personal gains.

This bill gives investigators of the Department of Social Services and Housing the necessary statutory authority to utilize all possible means for investigating the widespread abuses of the public assistance system, including those crimes not related to child support.

Your Committee has made a technical amendment without changing the substance of this bill.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 665, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 665, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 112 Human Resources on S.B. No. 1723

The purpose of this bill is to amend Section 362-12, Hawaii Revised Statutes, to allow the Governor to designate a chairman of the Progressive Neighborhoods Task Force from among its members.

The Progressive Neighborhoods Task Force currently provides policy direction and guidance to the State's Progressive Neighborhoods Program. Your Committee finds that presently, the law provides for the task force chairman to be the state administrative director. Enactment of this bill would give the Governor more flexibility in designating a chairman from among the members of the task force.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1723 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 113 (Majority) Human Resources on S.B. No. 1736

The purpose of this bill is to extend the State Comprehensive Employment and Training and State Loans for Certain Employment components of the State Program for the Unemployed for another year, and to establish a revolving fund for the State Loan program. \$3.2 million is to be appropriated for the SCET program and \$0.3 million is to be appropriated for the loan program.

Your Committee finds that although the unemployment rate for the state, as determined by the Department of Labor and Industrial Relations, has declined, there is still a significant problem with unemployment. The SCET program and the State Loans for Certain Employment program have been effective methods of providing opportunities which lead to stable employment, contributing in part to the decline in unemployment.

Your Committee further finds that the SCET program currently has approximately 725 participants. The Department of Labor and Industrial Relations states in its testimony that it anticipates the number of participants to be reduced to approximately 450 by June 30, 1979, with further reductions to take place through natural attrition and through successful placement of participants in employment not supported by the program.

Your Committee further finds that the State Loans for Certain Employment program which provides low interest loans to employers who hire unemployed individuals in new or additional employment opportunities has been working well. The moneys previously appropriated have been loaned out, and new job opportunities have come about as a result of the use of these loans.

The revolving fund for this loan program proposed by this bill would allow this program to continue on a self-sufficient basis. Currently, moneys paid back to the State for the Loans go directly into the general fund, requiring that funds for the loan program be appropriated on a regular basis. The revolving fund would eliminate this process, and would basically make one appropriation sufficient to carry out the program.

In conclusion, your Committee feels that continuation of the SCET and State Loans for Certain Employment programs is desirable, and that this bill's appropriation to carry out the purposes of the programs are adequate.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1736 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 Anderson and Soares did not concur.

SCRep. 114 Legislative Management

Informing the Senate that S.R. Nos. 186 to 188 and Stand. Com. Rep. Nos. 83 to 113 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 115 Ways and Means on S.B. No. 1096

The purpose of this bill is to make an appropriation out of the general revenues of the State of Hawaii for implementation of the collective bargaining agreement for Unit 1 employees.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill will allow the legislature to accomplish this goal.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1096, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1096, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 116 Ways and Means on S.B. No. 1097

The purpose of this bill is to make an appropriation out of the general revenues of the State of Hawaii for implementation of the collective bargaining agreement for Unit 2 employees.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill will allow the legislature to accomplish this goal.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1097 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1097, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 117 Ways and Means on S.B. No. 1098

The purpose of this bill is to make an appropriation out of the general revenues of the State of Hawaii for implementation of the collective bargaining agreement for Unit 3 employees.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill will allow the legislature to accomplish this goal.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1098 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1098, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 118 Ways and Means on S.B. No. 1099

The purpose of this bill is to make an appropriation out of the general revenues of the State of Hawaii for implementation of the collective bargaining agreement for Unit 4 employees.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill will allow the legislature to accomplish this goal.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1099 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1099, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 119 Ways and Means on S.B. No. 1100

The purpose of this bill is to make an appropriation out of the general revenues of the State of Hawaii for implementation of the collective bargaining agreement for Unit 5 employees.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill will allow the legislature to accomplish this goal.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1100 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1100, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 120 Ways and Means on S.B. No. 1101

The purpose of this bill is to make an appropriation out of the general revenues of the State of Hawaii for implementation of the collective bargaining agreement for Unit 6 employees.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill will allow the legislature to accomplish this goal.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1101 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1101, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 121 Ways and Means on S.B. No. 1102

The purpose of this bill is to make an appropriation out of the general revenues of the State of Hawaii for implementation of the collective bargaining agreement for Unit 7 employees.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill will allow the legislature to accomplish this goal.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1102 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1102, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 122 Ways and Means on S.B. No. 1103

The purpose of this bill is to make an appropriation out of the general revenues of the State of Hawaii for implementation of the collective bargaining agreement for Unit 8 employees.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill will allow the legislature to accomplish this goal.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1103 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1103, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 123 Ways and Means on S.B. No. 1104

The purpose of this bill is to make an appropriation out of the general revenues of the State of Hawaii for implementation of the collective bargaining agreement for Unit 9 employees.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill will allow the legislature to accomplish this goal.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1104 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1104, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 124 Ways and Means on S.B. No. 1105

The purpose of this bill is to make an appropriation out of the general revenues of the State of Hawaii for implementation of the collective bargaining agreement for Unit 10 employees.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill will allow the legislature to accomplish this goal.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1105 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1105, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 125 Ways and Means on S.B. No. 1106

The purpose of this bill is to make an appropriation out of the general revenues of the State of Hawaii for implementation of the collective bargaining agreement for Unit 11 employees.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill will allow the legislature to accomplish this goal.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1106 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1106, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 126 Ways and Means on S.B. No. 1108

The purpose of this bill is to make an appropriation out of the general revenues of the State of Hawaii for implementation of the collective bargaining agreement for Unit 13 employees.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill will allow the legislature to accomplish this goal.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1108 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1108, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 127 Transportation on S.B. No. 677

The purpose of this bill is to give legislative approval to the reimbursable clearing account method used by the Department of Transportation.

Your Committee finds that presently the Land Transportation Facilities Division of the Department of Transportation operates three major reimbursable clearing accounts. These accounts are Payroll Clearing, Employee Benefit Clearing, and Construction Administration. The clearing account method has been instituted and utilized by the department because a large part of this division's expenditures is project funded. This involved the funding of approximately 600 employees, who work on one or more projects in a pay period and other related costs. If the Department of Transportation was to wait for the semi-monthly timesheets to determine the exact fund and appropriation accounts out of which these employees are to be paid, it would be virtually impossible to pay these employees on schedule. In addition, without a clearing account, it would be extremely difficult or impossible to allocate indirect costs to projects.

The Department of Transportation testified that the reimbursable clearing account method has been accepted by the State Comptroller as an acceptable accounting method to redistribute costs.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 677 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. 128 Transportation on S.B. No. 678

The purpose of this bill is to repeal portions of the law governing expenditure of funds in the state highway fund that are no longer applicable and to clarify portions of this law that are ambiguous.

Your Committee finds that the statutory authority governing expenditures out of the state highway fund is contained in Section 248-9, Hawaii Revised Statutes. This section provides that moneys in the state highway fund be expended according to certain priorities. The Department of Transportation testified that the payments covered by subsection (a) relating to payment of interest on the principal of county bonds issued for highway purposes prior to January 1, 1945, and subsection (b) relating to the payment of interest of the principal of highway revenue bonds issued pursuant to Act 249, SLH 1944, are no longer required, since all of the county bonds have matured and the highway revenue bonds were refunded in 1967.

Your Committee further finds that subsection (c) has been amended many times and that some of the language of this subsection is ambiguous, and other portions have been superseded. The Department of Transportation testified that there is a question regarding the necessity for this section since expenditures from the fund now require appropriations or authorizations from the legislature which supersedes this section (see Chapter 37, Hawaii Revised Statutes).

Your Committee further finds that there should be statutory authority governing the expenditure of funds from the state highway fund. Thus, your Committee agrees with the amendment adding three (3) new subsections to govern expenditures from the state highway fund. These new subsections will permit expenditures for (1) maintenance, (2) acquisition, planning, design, construction and reconstruction of the state highway system and bikeways, and (3) reimbursement to the general fund for interest on and principal of general obligation bonds where such bonds are designated to be reimbursable out of the special fund.

Your Committee further finds that Section 248-11, Hawaii Revised Statutes, which authorizes state highway funds for the inter-departmental transportation control commission is no longer needed.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 678 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. 129 Transportation on S.B. No. 680

The purpose of this bill is to amend Section 286-102(d) to expressly allow taxi drivers who would be operating vehicles of 10,000 pounds or less GVWR to be as young as 18, but require that persons driving vehicles of over 10,000 pounds GVWR for compensation be a minimum of 21 years of age, provided that a person between 18 and 21 may drive such a vehicle for compensation if he is enrolled in a driver apprentice program approved by the Director of Transportation.

Your Committee finds that the minimum age requirements for operation of motor vehicles for compensation is presently unclear due to the conflicting requirements of Section 286-102(d)(1) and P.U.C. General Order Number 2. Section 286-102(d)(1) sets the minimum age to drive for compensation at 18 while P.U.C. General Order Number 2 sets the minimum age at 21 for taxi drivers and those operating vehicles in commerce of more than 10,000 pounds.

Your Committee further finds that this bill will clarify the State age requirement for all types of motor vehicle operation for compensation and provide the desired safety precautions for vehicles weighing more than 10,000 pounds.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 680 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 130 Transportation on S.B. No. 681

The purpose of this bill is to delete certain provisions relating to the highway supplies and equipment account previously utilized by the Land Transportation Facilities Division.

The Department of Transportation testified that this division no longer uses or is required to maintain a Highway Supplies and Equipment Account.

Your Committee finds that the Highway Supplies and Equipment Account was created by Act 48, SLH 1943. Under this law, all monies received from the United States Government for materials and supplies used or for the use or rental of equipment owned by the Department of Transportation on federal-aid highway projects were deposited into this fund and expended for purchase of materials, supplies, and equipment used for highway projects. Upon creation of the State highway fund in 1951, all monies received by the department from the Federal Highway Administration as reimbursement of federal share of costs incurred on federal-aid highway projects are treated as revenues and deposited into the federal-aid account in the state highway fund.

Your Committee further finds that Section 264-27 is obsolete.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 681 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. 131 Transportation on S.B. No. 683

The purpose of this bill is to update sections of the law relating to the duties of the Department of Transportation.

Your Committee finds that Section 266-7, Hawaii Revised Statutes, contains certain provisions relating to rules and regulations promulgated by the Department of Transportation that are no longer applicable because it is governed by the Hawaii Administrative Procedure Act, Chapter 91, Hawaii Revised Statutes. The Department of Transportation testified that the public is not necessarily aware of which section is the governing section which sometimes causes public relations problems.

Your Committee further finds that there are other provisions that are also superseded by other statutes or are redundant.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 683 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 132 Transportation on S.B. No. 758

The purpose of this bill is to amend Section 279A-4 of the Hawaii Revised Statutes by adding the Chairman of the Board of Agriculture to the Statewide Transportation Council.

Your Committee finds that there is a need for the addition of the Chairman of the Board of Agriculture to the Statewide Transportation Council in order that the concerns of Hawaii's

agriculture industry be heard.

The Department of Transportation testified that it is in concurrence with this bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 758 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 133 Transportation on S.B. No. 1333

The purpose of this bill is to expand the definition of "motor carrier" as used in the motor carrier safety law to include certain private carriers of passengers and to authorize the insurance of summonses and citations to enforce compliance with the motor carrier safety law.

Your Committee finds that there are certain passenger carrying activities being conducted by motor vehicle in furtherance of commercial enterprise which cannot be classified as common carrier or contract carrier operations and, therefore, are without supervision with respect to the safety of this type of operation. The Department of Transportation testified that this type of operation involves the transportation of passengers to and from the locations of commercial enterprises without charge to the passengers. The department feels that the enactment of this bill will insure that this type of passenger carrying activity would be subject to the same safety criteria as common and contract passenger carriers by motor vehicle.

Your Committee further finds that when the motor carrier safety function was the responsibility of the Public Utilities Commission, investigators of the Department of Regulatory Agencies, with powers to issue citations or summons, were used to enforce the motor carrier safety requirements. The Department of Transportation testified that the transfer of the motor carrier safety responsibility to the Department of Transportation did not provide for similar enforcement powers. The department feels that the enactment of this bill will grant similar powers to the Department of Transportation investigators to enforce compliance with the motor carrier safety requirements.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1333 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 134 Judiciary on S.B. No. 53

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article VI to which conformance is addressed by this bill reads as follows:

"ARTICLE VI

THE JUDICIARY

JUDICIAL POWER

Section 1. The judicial power of the State shall be vested in one supreme court, one intermediate appellate court, circuit courts, district courts and in such other courts as the legislature may from time to time establish. The several courts shall have original and appellate jurisdiction as provided by law and shall establish time limits for disposition of cases in accordance with their rules.

SUPREME COURT; INTERMEDIATE APPELLATE COURT;
CIRCUIT COURTS

Section 2. The supreme court shall consist of a chief justice and four associate justices. The chief justice may assign a judge or judges of the intermediate appellate court or a circuit court to serve temporarily on the supreme court, a judge of the circuit court to serve temporarily on the intermediate appellate court and a judge of the district court to serve temporarily on the circuit court. As provided by law, retired justices of the supreme court also may serve temporarily on the supreme court at the request of the chief justice. In case of a vacancy in the office of chief justice, or if the chief justice is ill, absent or otherwise unable to serve, an associate justice designated in accordance with the rules of the supreme court shall serve temporarily in place of the chief justice."

1. The legislative task regarding S.B. No. 53. The task presented by article VI, sections 1 and 2, pertaining to S.B. No. 53, is to establish "one intermediate appellate court." The express language mandates no specific make-up of the structure of that court, other than that it shall be a singular court contrasted against the geographical distribution of several intermediate courts found in many states.

Central to that task is the delineation of the jurisdiction and powers of the intermediate appellate court and its coordination with that of the supreme court and that of other courts and sources of appeal. There was serious discussion on the subject by the delegates to the Constitutional Convention, and we now turn our attention in that direction:

First of all, and most significantly, the delegates to the Constitutional Convention set out their basic concern for the establishment of the intermediate appellate court to be the urgent need to relieve the extreme congestion of cases presently in the supreme court and the inordinate delay of appellate disposition that has resulted. Standing Committee Report No. 52 of the Constitutional Convention indicated at page 3 its "basic concern over the evergrowing congestion of cases at the appellate level of our judicial system and the concurrent increase in the length of time it takes for both civil and criminal cases to reach a conclusion."

Your Committee recognizes that implicit in this concern is the need to fashion a jurisdictional structure for the intermediate appellate court that will, by the challenge and scope of its responsibility, be able to attract the best and most qualified men to its bench, and which will address the problems of appellate congestion by effectuating smooth coordination among the different courts and effective distribution of workload for the appellate process.

The delegates to the Constitutional Convention also addressed themselves to a brief discussion of the many objectives the intermediate appellate court should achieve in addition to the relief of appellate congestion. Standing Committee Report No. 52 states on pages 3 and 4:

"Your Committee, after careful consideration of all the proposed solutions to the problem of appellate congestion, recommends the establishment of an intermediate appellate court as the best, most effective and permanent solution to the problem. It is intended that the major duty of the intermediate appellate court will be to handle the more routine appellate cases of reviewing trial court determinations for errors and correcting such errors. This function is presently performed by the Supreme Court. By relieving the Supreme Court from this necessary but time consuming function, the Supreme Court can devote more time to its principal duty of selective review and formulation of decisional law. It is intended, however, that both the supreme court and intermediate appellate court have jurisdiction to hear all types of cases. A unitary filing system would be instituted by which all cases on appeal would be filed with one clerk's office and would require only one filing fee regardless of which or if both appellate courts review the case. The Supreme Court could use a bypass mechanism to immediately hear, in its discretion, special types of appeals. Although all double appeals could not be avoided, this mechanism would keep those to a minimum. It is intended, however, that in most instances, appellate review would be terminated at the intermediate appellate level. This two-tiered appellate system would preserve the vital law-shaping function of the Supreme Court and also insure a litigant's right to a meaningful appeal by affording a review on the merits without unnecessary delay."

Your Committee notes that the foregoing discussion recognizes the many and serious problems involved in fashioning the structure of the intermediate appellate court. Upon analysis, the language of Standing Committee Report No. 52 suggests a structure that should broadly:

- (a) require the intermediate appellate court to handle the more routine appellate cases; "
- (b) allow such court, together with the supreme court, to hear "all types of cases; "
- (c) allow the supreme court a "by-pass" in the hearing of "special types of appeals; "
- (d) afford the desired result of minimizing "double appeals; " and
- (e) preserve the "vital law-shaping function of the supreme court. "

Additionally, Standing Committee Report No. 52 suggests a unitary filing system and imposition of a provision to ensure "a review on the merits without unnecessary delay. "

The foregoing enumeration and terse discussion of the various objectives sought to

be achieved indicates to your Committee that the delegates to the Constitutional Convention intended that the legislature should act affirmatively to explore these separate objectives, weigh their interrelationship and obtain a rational balance among them in fashioning the ultimate structure for the intermediate appellate court.

Your Committee also notes the absence in Standing Committee Report No. 52 of any discussion of the present jurisdictional structure of the Hawaii Revised Statutes which differentiates the jurisdictions of the several courts under separate statutory sections. See section 602-5 (supreme court); sections 603-21.5 and 603-21.9 (circuit court); sections 604-5 and 604-7 (district court). Upon review, your Committee has concluded that it would be desirable to follow the present statutory scheme and fit the intermediate appellate court into that framework.

2. Jurisdictional structure. In addition to a careful review of the transactions of the Constitutional Convention, your Committee obtained and considered the testimonies and communications presented by the judiciary and the Hawaii State Bar Association's committee on judicial administration. Upon such deliberation, your Committee has established by way of S.B. No. 53, S.D. 1, a jurisdictional structure for the intermediate appellate court that functions in the following manner:

(a) Unitary filing. All appeals are to be filed with the intermediate appellate court, whether the appeal is destined for the supreme court or the intermediate appellate court. There is to be only one filing fee. This establishes the "unitary filing system" suggested by the Constitutional Convention.

(b) Certification. In every appeal, a party or the court itself may move for consideration by the intermediate appellate court that the case be deemed of such importance that direct supreme court review is required.

It is expected that such motion will be entertained at the initial stage of appeal. However, it is intended that such motion may be filed at any time in order to accommodate a subsequent realization of the seriousness of the case. It is also provided that the intermediate appellate court's determination as to whether a case should or should not be certified shall not be subject to appeal.

The scope of cases governed by the certification process is intended to reach "all types of cases," as suggested by the Constitutional Convention. We construe that suggestion to express the concern that the jurisdictional breadth of the intermediate appellate court should be fashioned to encompass the widest variety of cases so as to allow jurisdictional variety and challenge.

(c) Criteria for certification. To preserve "the vital law-shaping function of the supreme court," S.B. No. 53, S.D. 1 provides that the intermediate appellate court should certify a matter to the supreme court only if that case "invokes a question of such importance that it should require direct review . . . by the supreme court."

The foregoing language was adapted from similar language appearing in the laws of the state of Illinois. However, your Committee found it desirable that such broad language be supplemented by a list of more specific criteria to which the intermediate appellate court may refer.

Your Committee owes much for the criteria provided in this report on S.B. No. 53, S.D. 1 to former Justice of the Supreme Court, Bert T. Kobayashi, who was kind enough to aid your Committee. It should be mentioned, however, that the criteria was provided in a slightly different context and originally attended the views of the judiciary which will be further discussed. More particularly, the criteria which the intermediate appellate court is expected to consider in determining whether a matter before it is of "such importance" as to require direct supreme court review are:

(1) whether the case involves a question of first impression or presents a novel legal question; or

(2) whether the case involves a question of state or federal constitutional interpretation; or

(3) whether the case raises a substantial question of law regarding the validity of a state statute, county ordinance, or agency regulation; or

(4) whether the case involves issues upon which there is an inconsistency in the decision of the intermediate appellate court or of the supreme court; or

(5) whether, in a criminal case, the sentence involved is life imprisonment without the possibility of parole.

It should be emphatically noted that the foregoing criteria is not intended to exclude the intermediate appellate court's consideration of other criteria which may be relevant upon the general consideration of the "importance" of a particular case.

It should also be noted that the existence or absence of any among the listed criteria is not to be determinative of the question of certification exclusive of other considerations. Rather, it is specifically provided that the intermediate appellate court is allowed to consider the substantiality of the applicable criteria in each case.

It is also expected that the intermediate appellate court will give adequate consideration to the workloads of both courts in determining case assignment and withdrawals of certification.

Finally, it is provided that the intermediate appellate court's failure or refusal to certify a case, or its withdrawal of a certification, shall not be appealable. The proper vehicle for any grievance in that regard is the application for writ of certiorari after disposition of the case by the intermediate appellate court.

(d) Supreme court acceptance or rejection of certification. Your Committee expects that there will be very little problem, if any, between the intermediate appellate court and the supreme court in the matter of certification. However, should one arise, S.B. No. 53, S.D. 1 allows for the supreme court to resolve the same by its rules with the proviso that any withdrawal of a certification by the intermediate appellate court or the rejection of certification by the supreme court should be fully documented for subsequent legislative review. It is expected that effective communication between the two courts will obviate problems of case assignment between the courts.

(e) Appeal from the intermediate appellate court. Every final decision of the intermediate appellate court is subject to further appeal to the supreme court, but only by certiorari, which the supreme court may, in its discretion, refuse. Upon such refusal, or upon failure of the parties to apply for certiorari within thirty days from the issuance of the decision of the intermediate appellate court, that decision becomes final.

The allowance of the supreme court to deny certiorari is intended to minimize "double appeals." Your Committee notes that the delegates to the Constitutional Convention did not express the intention that all double appeals should be avoided, but only that they be minimized. Your Committee finds that it is impossible to devise "categories" of cases which should be denied final access to the supreme court without being in some way arbitrary. Even the most lowly of circumstances, may, in the right context, derive significant societal importance so as to warrant supreme court determination. The system of discretionary certiorari will preserve the right to supreme court determination to all cases, even those of the simplest factual and legal context. However, such right to appeal is subject in all cases to the right of the supreme court to refuse it. Thus, the final arbiter as to whether any case has such societal significance as to warrant a "double appeal" will rest with the supreme court. In this manner appellate review would be terminated "in most instances" at the intermediate appellate level.

(f) Supreme court by-pass of the jurisdiction of the intermediate appellate court. Your Committee expects that only the most extraordinary of circumstances will require the supreme court's imposition of its power to by-pass the jurisdiction of the intermediate appellate court. It is expected that only in the rarest instance will the intermediate appellate court fail to certify an appeal requiring an emergency review by the supreme court. Nonetheless, it is possible. Your Committee has provided for such eventuality by including a method of supreme court by-pass of the jurisdiction of the intermediate appellate court.

In emphasis of the extraordinary circumstances which should involve it, this supreme court by-pass has been confined to cases where the supreme court should deem in its discretion that the matter requires "immediate final appellate disposition in urgent resolution of a fundamental question of public policy, in order to preserve essential public order, or to prevent irretrievable damage to essential governmental process or public morale."

3. Discussion of other considerations. The judiciary expressed the view that "the problems of case assignment between the intermediate appellate court and the supreme court is one which may properly be addressed by either the supreme court or the legislature." It indicates that it "would prefer doing it by [supreme court] rule" to "retain as much flexibility as possible, albeit within reasonable limits."

Your Committee has deliberated at length upon the judiciary's suggestion, but

has concluded that the criteria controlling case assignment between the intermediate appellate court and the supreme court are of such crucial significance as to warrant statutory recognition. Party litigants and interested persons should be able to look to the Hawaii Revised Statutes for the criteria whereby cases are to be selected for direct review by the supreme court. The court rules are decidedly more limited in the scope of readers to whom they are addressed, while the Hawaii Revised Statutes is in general acquaintance. We think the Hawaii Revised Statutes would more effectively afford a measure of certainty to litigants and potential litigants as to which court their appeal is likely to be assigned.

Another point of difference between the judiciary's suggested structure and the structure provided by S.B. No. 53, S.D. 1 is the operation of the latter in focussing responsibility for applying the criteria for case assignment primarily upon the intermediate appellate court. Having labored to set out the criteria for case assignment, we do not view the duties to be involved in this regard as reflecting differentiation of power between the supreme court and the intermediate appellate court. Rather, your Committee views this primarily as a matter of workload and in terms of the basic concerns of the Constitutional Convention.

More particularly, your Committee considers that in all but the rarest case, application of the criteria for case assignment will be routine. That being the case, we note the Constitutional Convention's intent that routine matters should be handled by the intermediate appellate court so that the supreme court may "devote more time to its principal duty of selective review and formulation of decisional law."

Moreover, should that rare case occur whereby the supreme court wishes to obtain a direct "by-pass" review or wishes to reject an intermediate appellate court's certification, S.B. No. 53, S.D. 1, as previously discussed, provides appropriate solutions by way of "by-pass" jurisdiction in cases of emergency and by the supreme court's rejection of certification.

The judiciary also requested that if case assignment cannot be handled by supreme court rules, then a categorical division of case assignment would be desirable. Its suggested division would route all appeals from the district court, family court, administrative agencies other than the public utilities commission and the land use commission, and all criminal appeals from the circuit court to the intermediate appellate court. So far as we are able to discern, the remaining cases to be heard by the supreme court in the first instance would, by this view, encompass all civil appeals from the circuit court, all appeals from the land court and the tax appeal court, appeals from the labor and industrial relations appeals board, and appeals from the public utilities commission and the land use commission.

Your Committee has not adopted the judiciary's suggestion in this regard because categorical division for purposes of case assignment would be contrary to the Constitutional Convention's suggestion that both courts should hear "all types of cases." Also, it was felt that the intermediate appellate court would appropriately route all cases of importance in these categories to the supreme court in any event, in the normal course of its certification of cases to the supreme court.

It was also felt that routing all civil appeals from the circuit court, appeals from the public utilities commission, etc., to the supreme court without excluding those appeals that may be trivial, would not be productive of the expected function of the intermediate appellate court to relieve the supreme court from having to hear the more routine cases.

Finally in this regard, it was felt that such categorical deletion of specific types of cases would tend to limit the challenge and appellate experience of the intermediate appellate judges, and hinder recruitment to that bench.

4. Consideration of case assignment pending appointment of judges. S.B. No. 53, S.D. 1 also provides specifically for assignment of cases presently pending before the supreme court for decision by the intermediate appellate court. Such case assignment is intended to allow some measure of immediate relief to the supreme court's congested calendar.

More particularly, until appropriate appointment of the intermediate appellate judges, all appeals filed on and after the day after the effective date of this bill are subject to review by the supreme court conditioned upon subsequent assignment to the intermediate appellate court.

Additionally, such supreme court assignment of appeals to the intermediate appellate court applies to appeals filed previously to the day after the effective date of this bill; provided that all such cases involving questions of state or federal constitutional interpretation

or involving criminal sentence of life imprisonment without possibility of parole shall be reviewed by the supreme court.

In such selection of cases for assignment to the court will give appropriate consideration to the criteria for case assignment between those courts as established by this bill. Additionally, such case assignment must be viewed in the light of the basic concern of the delegates to the Constitutional Convention over the need for immediate relief to the present congestion of the supreme court caseload.

5. Technical changes. Your Committee also effected in excess of sixty technical amendments to the Hawaii Revised Statutes. These changes consist of the bulk of this bill and are, in the main, addressed to necessary modifications of statutory sections governing judicial review of administrative agencies.

Upon review of these statutory changes, it was considered whether it would not be more effective to repeal most of such statutory changes and effectuate a change to the Administrative Procedures Act in its place. However, it was concluded that such action would be beyond the intent of this bill and should be considered, if desired, at a later date.

6. Appropriation. The establishment of the intermediate appellate court will require appropriation of funds by the legislature. However, the amount sought for appropriation is being left in blank at this time inasmuch as the budget submitted by the judiciary has included expected cost for the establishment of such court and its operation for the next biennium.

7. Overview of the legislative task. At this final point, your Committee feels that a brief clarification of the guidelines it has considered for bills referred on matters addressed to amendments to the Hawaii State Constitution, is in order. In this regard, we preliminarily note the differentiated role between the Constitution and our legislative responsibility. The Constitution sets out the essential structures of government and the essential rights of the governed. The function of legislation is to provide necessary details to the Constitutional framework and within its confines provide comprehensive laws in the interest of general welfare. Upon that note, your Committee observed the following guidelines:

First of all, conditioned upon consideration of the federal constitution, your Committee has considered itself bound by the expressed language of the amendments to the Constitution and also by matters inescapably implicit in such language.

Secondly, your Committee considered matters expressed by the delegates in the Committee Reports of the Constitutional Convention to be discussions and suggestions worthy of serious consideration, but advisory only and not mandatory. We considered that the delegates to the Constitutional Convention had similar regard for the differentiated role between the Constitution and our legislative responsibility as previously discussed and would have expressed themselves in the body of the

constitution had they intended any matter to be mandatory upon the legislature.

Thirdly, your Committee considered all testimony addressed to matters allegedly intended by the delegates but found dehors the constitution and committee reports, to be beyond the proper purview of this Committee's deliberation. We felt that consideration of such matters would promote arguments and discussions of matters already decided by the amendments.

Lastly, your Committee in inviting and receiving testimonies from the public, considered the same to be relevant to our legislative function, only insofar as they were consonant with constitutional mandates, with the single exception of matters in consideration of the federal constitution.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 53, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 53, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Campbell.

SCRep. 135 Judiciary on S.B. No. 1292

Your Committee on Judiciary has considered the above-listed bill and recommends that it pass First Reading by title and be recommitted to the Committee on Judiciary for further consideration.

Signed by all members of the Committee except Senators Cobb, Chong, Mizuguchi, Carroll and George.

SCRep. 136 Legislative Management

Informing the Senate that S.C.R. Nos. 37 and 38, S.R. Nos. 189 to 195 and Stand. Com. Rep. Nos. 115 to 135 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 137 Tourism on S.B. No. 1706

The purpose of this bill is to exempt from the general excise tax amounts collected as negotiated gratuities or service charges. These amounts include guaranteed tips for services provided or anticipated in connection with prepaid food and beverage or entertainment packages, banquets, group portage services, group tour conductor services, and room services. The exemption applies when the charge is added to the sales price, and is identified as a gratuity, tip, or service charge. It is also limited to the amount of such charges disbursed by the employer to the employee providing such services.

This bill proposes to amend Section 237-24, Hawaii Revised Statutes, construed by the Department of Taxation in late 1977 as inapplicable to the foregoing amounts. Prior to 1977, such negotiated gratuities and service charges had been excluded from the general excise tax.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 1706 and recommends its being referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 138 Economic Development on S.B. No. 113

The purpose of this bill is to appropriate funds to implement an electronics industry development program.

According to testimony presented by the department of planning and economic development (DPED), an expanded high-technology electronics industry in Hawaii could, within the next five years, generate at least 1,000 direct jobs and approximately \$50 million in annual sales. It would provide the State with an additional \$1 million a year in tax revenues. Such an industry would benefit the State by reducing our current need to import an estimated \$45 million a year in high-technology products and would increase exports because most of the products would be destined for military and overseas customers. It would provide high-skill, high-paying job opportunities to local residents, especially those engineering students graduating from the University of Hawaii who are now forced to leave the State to seek out jobs in their field.

Your Committee finds that the program to promote the development of this industry is in keeping with the State's plan to diversify the economy and to alleviate our pressing unemployment problems.

Your Committee has made the following amendments to the bill:

- (1) A purpose clause was added to the bill as section 1 based on recommendations by DPED.
- (2) The amount of appropriation was adjusted from \$197,918 to \$125,000 for fiscal year 1979-80 after testimony from industry people indicated that this amount would be sufficient for the first year of operation.
- (3) The department of planning and economic development was made sole expending agency as recommended by that department.
- (4) The effective date of the Act was changed from "upon its approval" to "July 1, 1979."
- (5) Sections 1, 2, and 3 of the bill as referred to your Committee were renumbered respectively as sections 2, 3, and 4.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 113, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 113, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 139 Economic Development on S.B. No. 792

The purpose of this bill is to reduce the state tax on "gasohol" fuel by 2 cents a gallon.

This bill would provide a state 2 cents per gallon of gasohol tax reduction and would complement the federal excise tax exemption of 4 cents per gallon of gasohol, containing at least 10 per cent alcohol. The cost of ethanol to the distributor then would be reduced by 20 cents and 40 cents, respectively, or a total of 60 cents.

An increased production of ethanol from Hawaii's biomass, which can be mixed with gasoline to form gasohol and used as liquid fuel, would reduce Hawaii's dependence on imported petroleum. The transportation sector presents a major challenge to those developing our natural energy resources; gasoline substitutes are not easily found. The proposed tax reduction would act as an incentive to ethanol production from various biomass forms: molasses, pineapple, corn, etc.

This tax reduction also would act as an incentive for the production and marketing of gasohol. As part of the initial marketing phase, gasohol should be sold at a cost equal to, or less than, gasoline. A tax reduction would make this possible and would provide incentives for later, widespread marketing.

Hawaii has submitted a proposal to the U.S. Department of Energy for an Ethanol from Molasses Program, in which ethanol would be produced from Hawaii's sugar and used as a blend with gasoline. In order to lower the costs of the ethanol, by-products of potash (for fertilizer) and yeast (for animal feed protein) would be recovered and sold. Preliminary calculations show that the price of ethanol is somewhat uncertain but may probably be higher than the price of gasoline.

In order to enable a market test of gasohol feasibility, a special state gasoline tax exemption of 2 cents a gallon, along with the federal gasoline tax exemption of 4 cents a gallon for a mixture of gasoline and ethanol of at least 10 per cent ethanol, would bring the effective cost of the ethanol down to the level of or slightly below the current wholesale cost of gasoline.

Your Committee adopted the recommendation of Hawaiian Sugar Planters' Association and has amended section 2 of the bill by replacing the word "alcohol" on page 2, line 7, of the bill as referred to this Committee with the words "ethanol (biomass derived)".

The purpose of the amendment to the bill is to clearly specify the mixture of gasoline and the liquid alcohol. The term "alcohol" is much too broad, in that alcohol fuel could be produced from fossil fuel, whereas "ethanol (biomass derived)" limits the alcohol to those derived from biomass products.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 792, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 792, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 140 (Majority) Economic Development on S.B. No. 951

The purpose of this bill is to assist Hawaii's garment industry by providing funds for a data base and an integrated industrial engineering and power machine operator training program.

Garment manufacturing in Hawaii is an industry which in 1977 totaled \$64 million and had a direct labor force of about 3,400 employees. It is currently the State's third largest exporter and is second only to food processing as the largest employer among Hawaii's manufacturers. In the past few years, however, employment and productivity in this industry have been declining. In 1977, two apparel manufacturers closed their doors; in 1978, four more became defunct stirring doubts as to the industry's future.

A recent study conducted by Kurt Salmon and Associates at the request of the department of planning and economic development and the Hawaiian Fashion Guild delineated the problems of garment manufacturing in Hawaii, the causes, and recommendations to resolve those problems.

Your Committee finds that this bill would provide funds to implement the recommendations

contained in that study.

Your Committee has amended the bill as follows:

- (1) Corrected misstatements of fact in the first two sentences of section 1, the purpose clause.
- (2) Reduced the amount of appropriation for fiscal year 1979-80 from \$199,500 to \$150,000 which should be sufficient for at least one year of operation and deleted the appropriation for fiscal year 1980-81 to assure legislative review of the program during the 1980 regular session.
- (3) Conformed section 3 to reflect changes made in section 2.
- (4) Changed the effective date of the Act in section 4 of the bill from June 1, 1979 to July 1, 1979.
- (5) Made other minor language and style changes.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 951, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 951, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Carroll did not concur.

SCRep. 141 Economic Development on S.B. No. 974

The purpose of this bill is to provide funding for research and development of geothermal fluids in combination with biomass energy projects.

A well-known method of producing ethanol is to use plant materials containing cellulose, break down the cellulose to sugars by a process known as acid hydrolysis, ferment the sugars to ethanol, and distill it. The process is costly due to the energy required for hydrolysis and distillation, and the chemicals needed, mainly sulfuric or sulfurous acid and lime. One of the proposals that could be studied involves the use of geothermal heat for processing and recovery of the abundant hydrogen sulfide to make sulfuric or sulfurous acid. This could result in significant cost savings and in providing another source of ethanol, in addition to molasses and cane sugar.

The department of planning and economic development believes there will be a major role for such hybrid geothermal-biomass systems in the future, especially when the State's geothermal energy resources are developed.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 974 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. 142 Economic Development on S.B. No. 987

The purpose of this bill is to appropriate funds to initiate a study to determine the feasibility of obtaining liquid fuel from biomass products, using the heat and other by-products from a geothermal well.

There is an imperative need to develop alternative energy sources in view of Hawaii's near-complete dependence on imported fossil fuel. Present knowledge suggests that systematic development of the potential alternative energy sources found in the State may appreciably reduce such dependence within the next several decades.

It appears that liquid fuel or fuel in general for the mobile sector, not electricity, is the key obstacle to total state and county energy self-sufficiency. Almost 60 per cent of the energy consumed in Hawaii is for transportation.

Should the Big Island and Maui discover major geothermal resources, energy transmission to Oahu (which consumes more than 80 per cent of the energy used in the State) could pose problems. Undersea cable capable of traversing depths greater than 1,500 feet has not been developed. The depth between Hawaii and Maui is 6,600 feet. Liquid fuel therefore from the combined geothermal/biomass operation could be the most

convenient and cost competitive alternative to transmission of energy.

The State of Hawaii, whether the pilot project location be the Big Island or Maui, is ideal for combining geothermal energy with biomass to produce liquid fuel because there is: abundant sunshine, rain, land, and therefore biomass; potential for major geothermal energy finds; a ready market; and, a location where the price of liquid fuel is above the national average, therefore making any innovation closer to being cost competitive.

Preliminary calculations have shown that sufficient biomass is grown in the State to theoretically supply all the fuel needed for automobiles. If geothermal energy meets the potential predicted by geoscientists and liquid fuel compatible with vehicular engines can be produced, a major portion of the state energy demand can be satisfied by bioconversion.

The initial objective of the feasibility analysis is to determine whether it is feasible to obtain liquid fuel from biomass products using the heat and other compounds available from a geothermal well. The by-products are also attractive: tannins for dyes; lignins (used for combustion burning); turpentine in the steam vapor; butanol; acetone; yeast; etc. The eventual economics will no doubt be dependent on the value of these by-products.

The possibility of interfacing a geothermal well with the major biomass industry, sugar mill operations, shows special promise. The following are some typical applications that should be considered: steam in raw sugar processing applications; bagasse saccharification for ethanol; removing hydrogen sulfide from geothermal steam and conversion to sulfur dioxide for the sugar clarification process; hydrogen sulfide conversion to sulfuric acid for use in saccharification; and bagasse drying for higher energy density.

The potential results from the feasibility study could be the key to minimizing the State's dependency on petroleum products, especially in the mobile sector.

All preliminary studies have shown that transportation fuel will be the key obstacle to energy self-sufficiency for Hawaii. S.B. No. 987 captures the essence of the local energy problem and suggests a potential solution, that is, combining geothermal energy and biomass to produce liquid fuel.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 987 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. 143 Economic Development on S.B. No. 1085

The purpose of this bill is to fund a study to formulate measures to promote the use of gasohol in Hawaii.

In view of the State's almost complete dependence on imported oil for its energy needs and the uncertainties of future oil supplies, the promotion of gasohol would be in the best interest of the State. The widespread use of gasohol, a mixture of gasoline and alcohol, to power automobiles in Hawaii would significantly reduce the consumption of fossil fuel and further serve to extend the State's precious fossil fuel supplies.

This bill would establish a goal wherein gasohol would be 20 per cent of the fuel used in automobiles in the State by 1985. It provides for an unspecified appropriation to fund a study to promote the use of gasohol in Hawaii.

At the present time alcohols are the only non-fossil liquid fuels for automobiles that could be made commercially available in Hawaii without importing the primary ingredients. Various studies have shown that up to 20 per cent alcohol mixed with gasoline can be an effective automobile fuel. Hawaiian Sugar Planters' Association, in tests conducted last year, showed that gasohol can be substituted for gasoline with no adverse effects.

It is the intent of the legislature that by 1985, at least 20 per cent of the total liquid fuel consumed in the State by automobiles be gasohol. In order to achieve this goal there is a need to provide adequate incentives to gasoline refiners to produce gasohol and to consumers to use gasohol.

Your Committee has amended the bill by specifying \$30,000 as the sum to be appropriated for this study.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1085, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1085, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 144 Economic Development on S.B. No. 1224

The purpose of this bill is to appropriate funds for the planning, construction, and purchase of equipment for a state flash freezing and cooling facility. This appropriation is in addition to a similar appropriation of \$450,000 authorized by Act 244, Session Laws of Hawaii 1978.

The State of Hawaii is committed to developing aquaculture as a major industry and expanding Hawaii's long-range fishing fleet. Pursuant to these goals, a State Master Plan on aquaculture has been formulated and work on a Fishery Master Plan for the State is currently underway.

Testimony by Charles C. Yamamoto, a representative of the Marine Fisheries Advisory Council, indicated that Hawaii's fishing and aquaculture industries presently generate approximately \$15 million in revenues each year. Mr. Yamamoto stated that it is estimated that a freezing plant would initially generate an additional \$2 million in revenues a year. In addition, testimony given by various groups indicated that a fishery freezing and cooling facility would provide market stability by making a constant supply of fish available and would aid in the development of an export market for Hawaiian fisheries products, such as the Malaysian prawn.

Your Committee has made the following amendments to the bill:

(1) The words "general revenues" on lines 1 and 2, section 1 of the bill as received by your Committee, have been changed to "general obligation bond funds".

(2) Added the standard lapsing clause language regarding the disposition of unexpended or unencumbered balance of the appropriation by an unspecified date.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1224, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1224, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 145 Economic Development on S.B. No. 1389

The purpose of this bill is to extend the lapsing date of Act 82, Session Laws of Hawaii 1973, from June 30, 1979 to June 30, 1981.

Act 82, Session Laws of Hawaii 1973, appropriated \$4.1 million to the Kauai Task Force for the purpose of planning and developing sound agricultural and other economic alternatives to fill the void created by the closing of the Kilauea Sugar Company and the last pineapple cannery on Kauai. This bill would extend the lapsing date of the Act to allow the Kauai Task Force to continue its study of agricultural development projects which may be beneficial to Kauai's future growth and development.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1389 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 Economic Development on S.B. No. 1427

The purpose of this bill is to appropriate funds for the Pacific Islands Development Commission.

The Pacific Islands Development Commission (PIDC) consisting of the governments of Hawaii, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Marianas Islands, was formed in 1970 to stimulate cooperative development in the Pacific area. Since its establishment, PIDC has undertaken the planning, research, and implementation of projects to develop promising industries that would benefit its member islands. Two industries that showed considerable potential in diversifying and expanding the various island economies were fisheries and tourism. To assist in the work,

two ancillary organizations were formed; one was the Pacific Tuna Development Foundation (PTDF) and the other was the Pacific Islands Tourism Development Council (PITDC).

The PTDF was formed in 1974 to foster the cooperative development of the large fisheries resources in the Pacific. Projects funded by the foundation total \$3.5 million and include testing of bait fish, methods of fishing, new fishing areas, and equipment.

The PITDC was created in 1976 as a nonprofit corporation in the State of Hawaii to promote tourism in the Pacific. A tourism action report is currently being done by the PIDC staff. Other projects undertaken by the commission include studies on the trade potential between the island governments. To continue this joint coordinated effort, PIDC at its annual meeting in American Samoa in January of this year, agreed to establish itself on a permanent funding basis with each member island contributing funds on a matching basis.

Your committee finds that this organization has allowed Hawaii to play an even greater leadership role in developing the Pacific region. According to Jose Diego, Director of Commerce in Guam, Hawaii's participation and leadership have inspired other island territories to achieve their current level of development. Accordingly, they look forward to Hawaii's continued participation and commitment.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1427 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. 147 (Majority) Economic Development on S.B. No. 1430

The purpose of this bill is to amend section 188-25, Hawaii Revised Statutes, to remove the ban on the sale of speared fish to enhance economic opportunities for commercial fishers and to provide the public with a greater variety of fish. Under the existing provisions of section 188-25, the sale or offering for sale of any speared fish other than shark, u'u, uhu, and kumu are prohibited.

Commercial fishing is a viable and important industry providing more than ten million dollars annually to Hawaii's economy. A significant portion of this amount is attributable to part-time and weekend fishers. In 1970, the legislature amended the Hawaii Revised Statutes to prohibit the sale of fish which had been taken with a spear. This had an immediate adverse impact on the availability of many species of fish in the marketplace and on the livelihood of many fishers relying on spear fishing to supplement their incomes. Kumu and uhu, which are nearly impossible to take by hook, virtually disappeared from the markets. To deal with this situation, the Hawaii Revised Statutes was amended in 1977 to permit the sale of u'u, uhu, and kumu taken by spear.

Testimony from various groups indicates that removal of the ban on the sale of speared fish would make a greater variety of fish available to the consumer without adversely affecting the environment or the fish resources in Hawaii's shoreline waters. This is primarily due to the fact that spear fishing is a very selective and efficient method of harvesting fish. Commercial fishers only take marketable fish of acceptable size and species.

The testimony indicates that spear fishers are limited harvesters of the ocean's resources. Such factors as poor weather conditions, rough seas, poor underwater visibility, and strong currents keep spear fishers out of the water as much as one-third of the year, thereby placing a further limitation on the amount of fish that can be taken by spear.

Your Committee adopted the recommendation of the department of land and natural resources and amended section 2 of the bill as referred to your committee by inserting the words "turtle or aquatic mammal" between the words "crustacean" and "with" on page 2, line 14. Certain other technical changes were also made.

This amendment is necessary to make section 188-25, Hawaii Revised Statutes, consistent with federal laws relating to the protection of marine turtles and aquatic mammals by providing that turtles and aquatic mammals are prohibited from being pursued, taken, or killed with a spear.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1430, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1430, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Carroll did not concur.

SCRep. 148 Economic Development on S.B. No. 1697

The purpose of this bill is to make an appropriation to fund the Honolua Watershed Project and the West Maui Soil Conservation District, Maui.

Your Committee has amended the bill by making technical amendments and by inserting the standard lapsing clause which would lapse any unexpended or unencumbered balance of the appropriation by a specified date.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1697, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1697, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 149 Economic Development on S.B. No. 1741

The purpose of this bill is to change the source of funding of certain capital improvement projects authorized by Act 10, Special Session Laws of Hawaii 1977, as amended by Act 243, Session Laws of Hawaii 1978, and Act 131, Session Laws of Hawaii 1978, to allow the governor the option to utilize either general revenue funds or general obligation bonds to fund certain projects. Currently, such projects are authorized to be funded solely by means of general obligation bond funds.

According to testimony by the department of land and natural resources, this bill is essential to the implementation of the Energy Tree Farm Program as authorized by Acts 131 and 243, Session Laws of Hawaii 1978. This is because the development of plantations of forest trees for energy or other purposes requires expenses of an operational nature such as planting tubes, wooden pallets, fertilizers, shipping boxes, soil survey expenses, and nursery labor. The department testified that it would be more appropriate to use general revenue funds for these types of expenses than the capital improvement project funds authorized by Acts 131 and 243, Session Laws of Hawaii 1978.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1741 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. 150 (Joint) Economic Development and Public Utilities on S.B. No. 1153

The purpose of this bill is to encourage the production of electricity produced from biomass energy sources by exempting from the general excise tax the gross proceeds from the sale of biomass energy production.

Your Committees find that there is an imperative need to develop alternative energy sources in view of the State's near-complete dependence on imported fossil fuels. Biomass energy conversion offers a viable source of alternative energy in Hawaii due to favorable environmental and other factors and its further commercial development should be promoted.

The use of biomass energy conversion instead of oil represents significant savings to Hawaii's economy by helping stem the outflow of dollars. For example, in 1975, 2.7 million tons of bagasse were consumed as fuel by Hawaii's sugar industry.

Your Committees further find that given sufficient incentives more energy could be produced from sugar operations.

One method would be to pre-dry bagasse. This would reduce average bagasse moisture content from 48 per cent and create a hotter fire. However, boiler efficiency would have to be improved to use this "higher BTU fuel", a step requiring substantial investment.

A second method would be to burn the leaves and tops of the cane stalk. In most cases, leaves and tops of cane stalks are a disposal problem and rightfully called trash. However, if they can be effectively used, they would no longer be trash, but instead, a valuable by-product.

A third possibility might be the introduction of a higher-fiber-content sugarcane variety. Care must be taken, however, not to trade sugar juices off for fiber, unless the economic advantage justified such a development.

Your Committees conclude therefore, that additional energy could be generated by Hawaii's sugar industry with a corresponding reduction of reliance on imported oil. The sugar industry already produces approximately 10 per cent of the electricity used in the State and has the technology today to produce even more electricity from bagasse and other biomass materials. Even though the technology is adequate to permit an increase in the production of biomass-produced electricity, the financial incentives are not.

Historically, it has been cheaper and easier to produce electricity by burning oil rather than burning a solid fuel. Many people believe that with higher oil prices the cost differential will simply vanish. This is not the case. Very little of the biomass generation cost is fuel cost. Most biomass generation cost is equipment, pollution control, labor, repair, and financing cost. These costs have risen right along with oil cost. It is still cheaper to burn oil to produce electricity.

Today, biomass electricity production is a risky, costly, and financially unattractive business venture in our oil-dominated market. S.B. No. 1153 will improve the atmosphere for business and will encourage the sugar industry and other energy producers to invest in the necessary equipment to start producing electricity without oil.

Due to the paralleling nature of biomass generation cost and oil cost, an external financial advantage is required to break the deadlock that will allow the biomass fuels to become competitive with oil. S.B. No. 1153 will provide such an advantage and will help industry to begin to reduce the State's almost complete dependence on oil.

Your Committees on Economic Development and Public Utilities are in accord with the intent and purpose of S.B. No. 1153 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senator Carpenter.

SCRep. 151 (Joint) Government Operations and Efficiency and Legislative Management on S.B. No. 165

The purpose of this bill is to allocate funds to enable review of administrative rules and regulations to ensure conformity with statutes.

The office of the Legislative Auditor recommended that the review be done by their office since such review is a post-auditing function.

Your Committees jointly adopted the recommendation of the Legislative Auditor by amending Section 3 of the bill by deleting "Legislative Reference Bureau" and substituting in place thereof "Office of the Legislative Auditor."

The purpose of the amendment to the bill is to enable the Legislative Auditor's office to review administrative rules and regulations to ensure conformity with statutes.

Your Committees on Government Operations and Efficiency and Legislative Management are in accord with the intent and purpose of S.B. No. 165, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 165, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees.

SCRep. 152 Government Operations and Efficiency on S.B. No. 391

The purpose of this bill is to amend Section 103-32, H.R.S., relating to the bidding and awarding of public contracts, by adding thereto a new provision whereby the contracting state officer may at his discretion negotiate with the three lowest bidders to reduce the price and award the contract at the reduced price.

Under present law, the contracting officer can negotiate with the lowest responsible bidder only with respect to a reduction in scope of work, thereby reducing the contract price. He is unable to negotiate a price reduction irrespective of a reduction in the scope of work to be done.

Testimony by the Department of Accounting and General Services and Samuel T. Hata, Director of Finance of the City and County of Honolulu, support a proposed amendment to S.B. No. 391 which would allow direct downward price negotiations with the lowest responsible bidder. Indications were that this would be more cost-efficient than continuing the present practice of requesting rebids when the lowest bid submitted exceeded available funds.

However, your Committee has decided that by allowing direct negotiations with the lowest bidder only, the State would be vulnerable to the substitution of inferior materials and/or workmanship at the option of such bidder. In order to obtain the most favorable contract for the State, it would be in its best interest to allow competitive negotiations between the officer and the three lowest bidders.

In order to accomplish this, your Committee amended Section 1 of S.B. No. 391 by inserting the following language after the word "the" on page 2, line 3:

"three lowest responsible bidders, may negotiate first with the lowest responsible bidder to reduce the price and award the contract at the reduced price, or may negotiate with such bidder to reduce the scope of work and to award the contract at a price which reflects the reduction in the scope of work[.]; or if such negotiation fails to produce a price that conforms to the available funding requirements, the officer may conduct similar negotiations, first with the second lowest responsible bidder, and if unsuccessful in obtaining a price that conforms to the funding requirement, he may conduct negotiations with the third lowest responsible bidder. If these negotiations do not result in a price within available funding requirements, the project will be open for rebidding by any and all interested parties."

The purpose of the amendment to the bill is to enable the officer to negotiate downward with the three lowest responsible bidders in cases where the lowest bid submitted exceeds the funds available to the State.

Your Committee on Government Operations and Efficiency is in accord with the intent and purpose of S.B. No. 391, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 391, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 153 Intergovernmental Relations on S.B. Nos. 448, 764, 979, 1183, 1256, 1257, 1260 and 1598

The purpose of these bills is to appropriate funds for various capital improvements in the county of Hawaii.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. Nos. 448, 764, 979, 1183, 1256, 1257, 1260 and 1598 and recommends that these bills pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 154 Intergovernmental Relations on S.B. No. 1793

The purpose of this bill is to provide for a matching grant-in-aid appropriation to the City and County of Honolulu for projects including, but not limited to, parks and recreation, public works, transportation and water projects, which have been designated by the City and County of Honolulu.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 1793 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 Yee.

SCRep. 155 Intergovernmental Relations on S.B. No. 1819

The purpose of this bill is to provide a grant-in-aid to the City and County of Honolulu for the installation of a water main along Flamingo Street, Oahu.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 1819 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 Yee.

SCRep. 156 Judiciary on S.B. No. 1292

S.B. No. 13, S.D. 1 was earlier reported from this Committee, but the title of that bill limited it to Section 5 of Article II making it technically defective. As the entire scope of

Campaign Spending requires that Section 6 of Article II on campaign contribution limits be included in this comprehensive measure, the substance of S.B. No. 13, S.D. 1 has been transferred with further amendments to S.B. No. 1292.

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The pertinent language of Article II to which such conformance is addressed by this bill reads as follows:

"CAMPAIGN FUND, SPENDING LIMIT

Section 5. The legislature shall establish a campaign fund to be used for partial public financing of campaigns for public offices of the State and its political subdivisions, as provided by law. The legislature shall provide a limit on the campaign spending of candidates.

CAMPAIGN CONTRIBUTIONS LIMITS

Section 6. Limitations on campaign contributions to any political candidate, or authorized political campaign organization for such candidate, for any elective office within the State shall be provided by law."

1. Background Considerations. Preliminarily, a brief overview of the history of legislation on the subject matter of campaign spending, contribution and disclosure is in order. First of all, comprehensive legislation over campaign spending and disclosure was enacted by the 1973 Legislature by Act 185, SLH 1973, which placed expenditure limits differentiated by schedule among different elective offices based on number of voters that must be reached; and which required disclosure on spending and contribution, but which did not place limits on contribution.

Second, the Supreme Court of the United States issued its decision in Buckley, et al. v. Valeo, et al., 424 U.S. 1 (1976) by which it ruled that the spending limits imposed by the federal law were invalid, but it validated the contribution and disclosure requirements of that law.

Third, the 1977 legislature amended the law to delete the spending limits by Act 127, SLH 1977, thereby conforming to Buckley.

Finally, the Constitutional Convention of 1978 amended Article II of the Hawaii State Constitution requiring (1) the establishment of partial public financing, (2) the provision of a limit on campaign spending of candidates, and (3) enactment of limitations on campaign contributions.

Crucial to your Committee's initial consideration of this bill was the apparent conflict between the proscription in Buckley against expenditure limits and the Constitutional Amendment's mandate to establish expenditure limits. Accordingly, we now address ourselves to an analysis of this problem.

We note for informational purposes only that the delegates to the Constitutional Convention expressed great concern in the depletion and damage of public confidence in our political process by its domination by money. It indicated its concern that the high cost of running for office generates pressures to raise inordinate sums and that such pressure has caused widespread public belief that public officials once elected cannot have "the flexibility to act in a manner detrimental to the interest of their powerful backers." It indicated its concern that high cost of campaigns also effectively discourages individuals from participating as candidates because it engenders the belief that "the political process is the exclusive domain of the rich." They concluded that our democratic process can have no meaning without a reasonable measure of public confidence in its integrity.

Addressed more specifically to the constitutional problem raised by Buckley, Standing Committee Report No. 72 of the Constitutional Convention states on page 8:

"The limitation on campaign spending is not without constitutional problems. The limitation on spending would be constitutionally justified if linked to public financing but Buckley v. Valeo, 424 U.S. 1 (1976) presents a constitutional hurdle to limiting expenditures for those not receiving public financing. Your Committee is fully aware that litigation will be necessary to determine the validity of any limits on spending by those who do not receive public financing but your Committee believes that such litigation is necessary and welcome because the public interest served by campaign spending limits is so essential."

Your Committee does not, and has not, considered the foregoing Committee Report as in any way mandatory upon our task, but have recited it for informational purposes only. We are, nonetheless, aware that the constitutional issue raised in Buckley and which is

addressed by the Constitutional Amendment's mandate to establish expenditure limits, falls on the First Amendment. We are mindful that the First Amendment must necessarily afford the broadest protection to political expression and ensure unfettered interchange of ideas.

The Buckley case did not address itself to the problem of the failure of public confidence in our political process. Rather, that decision is founded on the proposition that expenditure limits are invalid because they reduce "the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached." 424 U.S. at 19 and 20. It is our view generally that it would be within the permissible confines of Buckley if expenditure limits are established in reasonable protection of the public's right to participate meaningfully in the political process and to be reasonably secure in its confidence in the integrity of our political process.

2. Structural Changes to Present Law. In keeping with the mandate of Article II, Sections 5 and 6 of the Hawaii Constitution, this bill is comprised of three major sections: contribution limits, expenditure limits, and partial public financing of campaigns. Briefly, these provisions under this bill are as follows:

A. Contribution Limits (pp. 24-25).

(1) Campaign contributions from a person have been limited to \$2,000 for a primary, special primary, or general election.

(2) Campaign contributions from political parties have been limited to the following percentages of the expenditure limit for each elective office:

20% for the offices of governor, lieutenant governor and mayor;

30% for the offices of state senator and county council member; and

40% for the offices of state representative and the board of education.

B. Expenditure Limits (pp. 27-28). Expenditure limits have been set for each statewide, county, or district office based on the total number of registered voters for the last preceding general election for a particular race multiplied by the following amounts for a primary, special primary and general election:

for the office of governor -- 1 dollar and 20 cents;

for the office of lieutenant governor -- 70 cents;

for the offices of mayor and prosecuting attorney -- 90 cents;

for the offices of state senator and county council member -- 70 cents;

for the office of state representative -- 70 cents; and

for the office of the board of education and all other offices -- 5 cents.

No candidate can spend more than sixty per cent of his respective expenditure limit for either the primary or general election. As a measure to offset the inflation rate, an increase of five percent per year after 1980 will be added to the base amounts as set forth above.

C. Campaign Fund (p. 38). Public funds to partially finance all campaigns for primary, special primary, and general elections will be generated by:

(1) An optional tax check-off of \$2 for each individual with a state tax liability of \$2 or more;

(2) An appropriation from general fund revenues, if the amount collected under subsection (1) is insufficient to partially finance all races; and

(3) All fines collected or moneys returned to the fund pursuant to any provision of this chapter.

All funds received pursuant to subsections 1 through 3 above shall be deposited in the Hawaii election campaign fund.

D. Public Funding (pp. 38-40). A candidate for statewide, county, or district

office shall be eligible to receive up to twenty per cent of the expenditure limit set for his respective office upon reaching a qualifying sum of private contributions. A candidate qualifies for public funds by raising private contributions of \$10 or more from a set number of donors. Upon qualifying for public financing, a candidate will receive fifty per cent of his total allotment of public funds. Supplemental funds may be requested up to the maximum up to ten days prior to an election. Each candidate who receives public funds must agree to abide by the expenditure limit set for his respective office.

E. Tax Credit (pp. 43-44). S.B. No. 1292, S.D. 1 also includes a section designed to allow a tax credit for taxpayers who contribute to candidates who have agreed to abide by spending limits. The taxpayer may deduct up to fifty per cent of his contribution, but not more than \$25 for an individual, or \$50 for a married couple filing jointly. Tax credit forms shall be distributed only to candidates who have agreed to limit their expenditures. All taxpayers who wish to take the tax credit must obtain the credit form from the candidate. The names of all candidates who do not agree to limit their expenditures shall be published in the newspaper.

3. Spending Limit. As previously discussed, your Committee is aware of the severe impact of Buckley with regard to spending limits and public confidence. We are aware that many are demoralized by the notion that Buckley will permit absolutely no limitation to spending, and that by such construction, the entire nation must, in the name of free speech, allow an eventual and total commercialization of our political process. We do not subscribe to such pessimism, and believe that as with everything else campaign spending must admit of limitations that reflect responsible respect for the rights of others.

Your Committee has labored many hours over the spending limits concerned particularly that such limits should allow abundance of opportunity to communicate fettered only in reasonable protection of public confidence. In our deliberations we considered, among other things:

- (1) The nature and make-up of the respective voting population;
- (2) Information from past elections;
- (3) Cost data of the various media of communication and modes of campaigning;
- (4) The probable effect of the level of expenditures in obtaining the willingness of individuals to lend themselves to candidacy;
- (5) The probable effect in maintaining a level of public confidence in our political process necessary to retain a believable democracy; and
- (6) The preservation of each candidate's full and reasonable exercise of his right of expression, reflecting abundance by way of allowing a generous quantity of ideas, and the size of the audience to be reached in each voting district.

Upon such labor, your Committee specifically finds that each of the respective spending limits would be in reasonable balance for the election of 1980 so as to afford protection to public confidence without placing undue burden on each candidate's right of free and adequate expression. Additionally, we have allowed a five per cent annual increase over the limit so provided so that such limits should in actuality be greater than our projections in 1980. We have done this so that any error in our projection should fall toward allowing a more generous limit than otherwise, and to offset the rate of inflation each year.

Our review of the spending pattern for the election years commencing 1974 reveals that the candidates in 1974 were able to readily comply with the spending limits established by the 1973 legislation, and that no complaint was made under that law by any candidate that he had been in any way burdened in his right of expression.

Such review also shows that for all offices other than governor and mayor the spending pattern of the candidates had by and large closely reflected the 1973 limitation figures in the elections of 1976 and 1978. If the gubernatorial and mayoral races veered from the norm, it is precisely in these races that public confidence has suffered grave demoralization because "money" has obtained apparent reign over our democratic process.

S.B. No. 1292, S.D. 1 also provides for the commission to study and report to the legislature recommending campaign spending and contribution limits one year before each election. The purpose of this is to enable the legislature to keep pace with such changes that may have taken place to effect statutorily established limits and to effect necessary changes if the circumstances so require.

4. Contribution Limits. The United States Supreme Court in Buckley found the \$1,000

contribution limitation upon individuals and groups to candidates and authorized campaign committees imposed by the federal law to be valid. The \$1,000 contribution limitation was found valid because it served the purpose of limiting "the actuality and appearance of corruption resulting from large individual financial contributions." The Court also noted very gravely that "[t]o the extent that large contributions are given to secure a political quid pro quo from current and potential office holders, the integrity of our system of representative democracy is undermined. Although the scope of such pernicious practices can never be reliably ascertained, the deeply disturbing examples surfacing after the 1972 election demonstrate that the problem is not an illusory one."

Your Committee has deliberated upon the contribution limits along lines of analysis similar to that followed in our establishment of the spending limit, with the additional concern that these contribution limits should prevent corruption while at the same time allowing candidates reasonable adequate exercise of political expression.

We have also reviewed contribution limits in two other respects. First is the concern that political parties, whose *raison d'etre* is the election of party candidates should be allowed to contribute to candidates of its own affiliation in excess of the individual limits. In this regard, we heed the need for healthy party affiliation if new ideas and candidates are to be encouraged to participate in our political process. S.B. No. 1292, S.D. 1 will allow a political party to contribute up to given percentages of candidates' respective spending limits.

Your Committee has also considered that immediate family members of a candidate should not be inhibited by any contribution limitations. S.B. No. 1292, S.D. 1 defines "immediate family" following federal law.

5. Disclosure Requirements. Buckley acknowledged that "there are governmental interests sufficiently important to outweigh the possibility of the infringement (of First Amendment rights)" in campaign reporting and disclosure requirements because the "free functioning of our national institutions is involved."

Sufficient magnitude of governmental interest was involved in the reporting and disclosure requirements of the federal law in Buckley because of (1) its informational value, with the "sources of a candidate's financial support" alerting the voters "to the interests to which the candidate is most likely to be responsive," (2) its deterrence of corruption "by exposing large contributions and expenditures to the light of publicity", and (3) its value as "an essential means of gathering data necessary to detect violations"

In that regard, S.B. No. 1292, S.D. 1 provides for comprehensive disclosure and reporting requirements and empowers the commission with audit and subpoena responsibilities in order that public scrutiny and enforcement of spending and contribution limits are adequately enhanced.

6. Disclosure Requirements and Ballot Issues. The attention of your committee has been brought to page 6 of Attorney General's Opinion No. 76-2 which states:

"We are of the opinion, however, that (disclosure and reporting) provision cannot be applied to committees not controlled by a candidate and which merely support a ballot issue." (Parentheses added.)

Your Committee has reviewed Buckley in this regard and is of a different interpretation.

We are mindful of the strict test applied by the courts in determining the validity of governmentally compelled disclosure requirements. We are also mindful that in Buckley, the U. S. Supreme Court narrowly construed the operation of the federal spending and contribution disclosure requirements on individuals and groups that are not candidates or political committees, and said that the statutory language in that regard governed only "contributions earmarked for political purposes" and expenditures "for communications that expressly advocate the election or defeat of a clearly identified candidate."

However, nowhere in that decision did the U. S. Supreme Court specifically prohibit contribution disclosure requirements imposed upon ballot issues. We think that to construe Buckley as prohibiting such requirements constitutes overbreadth in the interpretation of that decision.

The reason for our view is that the U. S. Supreme Court validated disclosure requirements in Buckley as bearing "sufficient relationship to a substantial governmental interest" because such requirements served "informational interest" and imposed "a reasonable and minimally restrictive method of furthering First Amendment values by opening the basic processes of our federal election system to public view." 424 U.S. 81-83.

We deem it similarly important to bring information of contributational support of ballot issues in our election system to public view so that the electorate may have full opportunity to exercise its right to know. Certainly, where particular ballot issues may be advantageous to specific private interest groups, the electorate must be able to exercise its right of franchise with the full opportunity to be informed of the extent of financial support being heaped in favor, or in opposition, of such ballot issues. We think that the public's right to be properly informed is a substantial governmental interest and reasonable requirements for disclosure in that regard are not prohibited as impermissible violations of the First Amendment by the Buckley decision.

Accordingly, we have retained the disclosure requirements pertaining to ballot issues in the present law.

7. Enforcement and Severability. S.B. No. 1292, S.D. 1 provides two essential methods of enforcement. The first is the penalty provision which makes violation of the provisions punishable as a petty misdemeanor in the case of individuals, and by fine not to exceed \$1,000 in the case of corporations, organizations, associations and labor unions.

In conjunction with the penalty provision, any person is empowered to "sue for injunctive relief to compel compliance"

Also, the penalty provision does not exclude prosecution under appropriate provisions of the Hawaii Penal Code. For instance, if a candidate misuses public funds, he would also be subject to prosecution under section 708-874 governing "misapplication of entrusted property."

The second method of enforcement is entrusted to the commission by way of bringing public notice to (1) a candidate's indication of his unwillingness to agree to reasonable spending limits, (2) his exceeding the spending limit, (3) his failure to file a report, and (4) other flagrant violations of the campaign spending law.

To provide protection against abuse of the public notice function, the commission is required to act reasonably in bringing fair public notice to the incident or violation involved.

Finally, S.B. No. 1292, S.D. 1 contains a severability clause, the purpose of which is to protect against invalidation of the provisions of the bill in their entirety should one or several separate provisions be ruled invalid.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1292, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1292, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 157 (Majority) Health on S.B. No. 124

The purpose of this bill is to amend Chapter 244, Hawaii Revised Statutes, by establishing a special fund that derives revenues from the Liquor Tax Law to aid in the treatment and prevention of alcoholism throughout the State.

The intent of the bill is to have 10 percent of all taxes collected under this chapter deposited into an "Alcoholism Treatment Fund" and be expended throughout the State on a per capita basis within each county for programs dealing with the prevention and treatment of alcoholism.

The Committee recognizes the widespread problem of alcoholism within the State, and the need to address the area of treatment of prevention of alcoholism.

Your Committee has amended the bill by adding a new section that amends Chapter 244-17 to allow ten percent of the revenues collected under this chapter to be deposited into the "Alcoholism Treatment Fund".

The amendment is required to conform contrary provisions of this Chapter with the new provision creating the "Alcoholism Treatment Fund".

Your Committee on Health is in accord with the intent and purpose of S.B. No. 124, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 124, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.
Senator Saiki did not concur.

SCRep. 158 Health on S.B. No. 229

The purpose of this bill is to exempt amounts received from the sale of prosthetic devices from the 4% State General Excise Tax.

This bill amends Section 237-24, Hawaii Revised Statutes, by adding a subsection which creates the exemption and which defines prosthetic devices as:

"any device designed to support or take the place of a part of the human body, or to increase the acuity of a sensory organ and includes, but is not limited to, hearing aids, dentures, artificial members, and prescription eye glasses".

Your Committee on Health is in accord with the intent and purpose of S.B. No. 229, 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 Yee.

SCRep. 159 Health on S.B. No. 475

The purpose of this bill is to amend Section 448-5, Hawaii Revised Statutes, by requiring one member out of nine members on the Board of Dental Examiners to be a duly licensed dental hygienist who has been practicing dental hygiene for five years preceding appointment.

The Committee heard both pro and con arguments on this bill and feels that a trained dental hygienist could provide valuable input in the operation of the Board.

Your Committee amended the bill to provide that the Board of Dental Examiners be increased from nine to ten members due to the addition of a practicing dental hygienist to sit on the Board, along with the existing seven practicing dentists and two lay persons.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 475, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 475, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senator Yee.

SCRep. 160 Government Operations and Efficiency on S.B. No. 552

The purpose of this bill is to require the awardee of a concession contract on public property to post a performance bond equal to four-months rental under the contract.

Under present law, the bond must be equal to two months rental or other charge required under the contract.

Your Committee is informed that the City and County of Honolulu has found through experience that the requirement for a performance bond to secure rents from concessionaires operating businesses on City properties, with the attendant risks, should be increased from two to four months in view of the protracted period usually required for remedy and to provide the City with adequate recovery from potential loss of rent.

Your Committee on Government Operations and Efficiency is in accord with the intent and purpose of S.B. No. 552 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. 161 Health on S.B. No. 834

The purpose of this bill is to make an appropriation of \$300,000 for a grant-in-aid to Kapiolani Children's Medical Center to fund planning and renovation and Phase II equipment.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 834 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 Yee.

SCRep. 162 Health on S.B. No. 1210

The purpose of this bill is to amend Section 663-1.5, Hawaii Revised Statutes, by extending

the limitation against liability to participants of volunteer groups and agencies rendering various medical and health services.

The American Cancer Society, the Lung Association of Hawaii, and the Waikiki Health Center stated that the expanded definition of exception to liability would be an incentive which would encourage volunteer activity. "Voluntary health agency" means a recognized non-profit health agency that depends in the main on volunteers to carry out its programs, and "volunteer" means a person who is carried officially as a volunteer by the health agency and receives no remuneration for the work done.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1210 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. 163 Health on S.B. No. 1324

The purpose of this bill is to update the list of Controlled Substances as required by Section 329-11(e), Hawaii Revised Statutes, to set up a system for the Department of Health to publicly announce and make available to the public copies of any changes to the schedules, to add a new subsection regarding the preparation of prescriptions, and to add provisions to the Penal Code to assist investigators in properly performing their duties.

Your Committee adopted the recommendation of the Department of Health to amend the proposed bill in order to bring Hawaii's Controlled Substances Schedules into conformity with the Federal Schedules.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1324, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1324, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Yee.

SCRep. 164 Health on S.B. No. 1521

The purpose of this bill is to exempt sales of prescription drugs from the general excise tax law.

Your Committee realizes the need to aid the people of the State with the problem of rising medical costs. It is to this aim the bill is addressed. In light of the announced surplus of \$15.8 million in the state funds for FY 78-79, we feel that this exemption would not place a hardship on the State. In addition, this exemption would further help people who are temporarily unemployed due to illness and the elderly who rely on prescription drugs to lead a normal life.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1521 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 Yee.

SCRep. 165 Health on S.B. No. 1540

The purpose of this bill is to require the Department of Health, when considering future purchases of equipment, to study the possible cost savings of leasing versus outright purchases of such equipment.

The Department of Health reported that the County/State Hospital Division is currently leasing two major equipment acquisitions. The leasing of these items has either resulted in significant cost savings or improved the Department's cash flow posture.

Your Committee amended the bill to implement the purpose of this Act by amending Section 321-7, Hawaii Revised Statutes.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1540, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1540, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 166 (Joint) Health and Education on S.B. No. 1665

The purpose of this bill is to appropriate \$25,000 to be used in the operation of the two child development centers (Honolulu, Windward) which provide various types of therapy along with special education and psychological testing to children whose abilities have been impaired by cerebral palsy.

The United Cerebral Palsy Association of Hawaii noted that their organization is the sole provider of services to children afflicted with cerebral palsy. Without this program, the children to whom the organization provides services would be homebound, without the expertise of professionals, or would be committed to an institution.

Your Committees on Health and Education are in accord with the intent and purpose of S.B. No. 1665 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Cobb, Kawasaki, Kuroda, Anderson and Yee.

SCRep. 167 Health on S.B. No. 1763

The purpose of this bill is to provide for the health information and data interface needs of the State, and to ensure that the collection, coordination, maintenance, analysis and transmission of health data is accomplished in a systematic manner.

Testimony from the Hospital Association of Hawaii, Hawaii Medical Services Association, Department of Health, and the State Health Planning and Developmental Agency stated the need of a comprehensive system for both the health community's and the consumer's use, as well as allowing for creative research work in health planning.

We recognize the need for coordinated data systems in health to facilitate effective planning, while avoiding the duplication of efforts which incur unnecessary costs and labor.

Your Committee has amended the bill by setting out a new chapter to be called the Health Information Act, which provides a comprehensive system to accomplish the purposes of the bill.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1763 and recommends that it pass First Reading by title, in the amended form attached hereto as S.B. No. 1763, S.D. 1, be printed and be placed on the calendar for Second and Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 168 Health on S.B. No. 1769

The purpose of this bill is to require licensing of all speech pathologists and audiologists in the State.

Presently, speech pathologists and audiologists employed by the local, State and Federal governments are exempted from applying for licensing under Chapter 468E. This bill would make it necessary for mandatory licensing under Chapter 468E for all speech pathologists and audiologists. However, the eligibility requirements for licensure will be waived for speech pathologists and audiologists employed by the local, State or Federal governments on January 1, 1980.

This bill will insure a high quality of service to the community in the fields of speech pathology and audiology.

Your Committee made technical amendments which do not affect the substance of the bill.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1769, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1769, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senator Yee.

SCRep. 169 Tourism on S.B. No. 950

The purpose of this bill is to appropriate \$2,500,000 out of the general obligation bonds

of the State of Hawaii for various Waikiki improvement projects.

Such an outlay for much needed infrastructural improvements to the focal point of the State's visitor trade conforms with the enumerated priorities of the State Plan, and among the proposed projects are: underground utility wiring; Kalakaua Avenue sidewalk redevelopment and beautification; mini-park acquisition; storm drainage; and miscellaneous traffic improvements.

Your Committee amended the bill by eliminating the requirement that at least twenty percent of the cost of the projects be provided by the City and County of Honolulu. The Committee felt that the City's present inability to contribute financially should not delay or preclude this necessary undertaking, important to the economic well-being of the entire State.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 950, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 950, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and Yee.

SCRep. 170 (Joint) Human Resources and Intergovernmental Relations on S.B. No. 406

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii, \$70,000 for a grant-in-aid to the City and County of Honolulu to provide transportation for mobility handicapped clients of the Department of Social Services and Housing.

Your Committees find that prior to the implementation of the Handi-Van service by the City and County of Honolulu, the State's Division of Vocational Rehabilitation (DVR) of the Department of Social Services and Housing, provided state-funded transportation to their mobility handicapped clients. However, since the start of the Handi-Van program, DVR has been encouraging clients to use the Handi-Van. In utilizing the Handi-Van program, DVR has found it necessary only to subsidize client transportation at the rate of 50 cents per passenger trip by purchasing pre-paid 50-cent coupons from the Handi-Van contractor. The City and County pays the balance of \$3.65 per passenger trip for these clients as it does for other semi- and non-ambulatory handicapped clients of the Department of Education and Department of Health.

Your Committees believe that jurisdiction and responsibility for the various State schooling, rehabilitation and health care programs includes responsibility for providing transportation for those clients who cannot provide their own. Accordingly, they have adopted the recommendation of the City and County of Honolulu that the grant-in-aid be expanded to cover the costs of providing Handi-Van services to all State clients who utilize the program by amending the amount specified in the bill from \$70,000 to \$195,000. The bill is also to be amended by specifying that the grant is for the period of July 1, 1978 through June 30, 1979.

Your Committees on Human Resources and Intergovernmental Relations are in accord with the intent and purpose of S.B. No. 406, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 406, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senator Yee.

SCRep. 171 Human Resources on S.B. No. 1472

The purpose of this bill is to appropriate funds to allow the Sex Abuse Treatment Center to expand and continue its services to victims of sexual abuse and assault.

Your Committee finds that the Sex Abuse Treatment Center is the only program in the State which currently offers comprehensive emotional, medical, legal, and other support services on a 24-hour basis to victims of sexual assault. Since its inception in 1976, the Center has provided direct assistance to over 650 victims, conducted approximately 70 training sessions for health care, human service and criminal justice personnel, hotline volunteers and crisis workers on Oahu as well as on other neighbor islands. Furthermore, the Center has given more than 160 talks to individuals, groups, and those organizations in the community concerned about sexual abuse.

Your Committee further finds that the Center's plans to expand its services include launching a public education media campaign, developing linkages with other programs in the community to increase the depth of its support services for victims, and completing the evaluation study of its services.

Although efforts are being made to increase effectiveness of its program, the Center must still search for innovative and aggressive ways to reach the unreported victim population, plan and develop services for victims on the neighbor islands, and provide for outreach services for those victims who are unable to take full advantage of the Center's services due to transportation problems.

This bill provides the necessary funds to insure that the Sex Abuse Treatment Center will have the financial means to continue its current services and further expand its program.

Your Committee has amended this bill to provide that \$425,427 be appropriated for the biennium: \$216,099 for FY 79-80 and \$209,328 for FY 80-81.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1472, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1472, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 172 (Majority) Human Resources on S.B. No. 1764

The purpose of this bill is to remove the State Immigrant Services Center from the administration of the State Commission on Manpower and Full Employment and to place it under the Office of the Governor; and to grant civil service status to the director and personnel of the Center.

Your Committee finds that while the present organizational arrangement has worked well, there has been a concern that the identity of the Center has often been obscured under the Manpower Commission. Furthermore, transfer of the Commission for administrative purposes to the Department of Labor and Industrial Relations, as currently proposed in a separate bill this Legislative Session, may complicate the situation. Placing the Center under the Governor's Office would facilitate a high level of coordination among all State agencies providing services to immigrants and Indo-Chinese refugees in the areas of education and training, health, housing, employment, and social adjustment.

Your Committee has amended this bill to delete the granting of civil service status to the current staff. Your Committee finds that the nature of the positions does not lend itself to coverage under Chapters 76 and 77 at this time.

Your Committee has further amended this bill to provide for two additional responsibilities of the Director as follows: (1) review and comment upon grant proposals for immigrant service agencies requesting funding from State and federal sources; and (2) assist and coordinate efforts in helping refugees in Hawaii become adjusted and productive members of American society.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1764, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1764, 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. 173 (Joint) Health and Education on S.B. No. 613

The purpose of this bill is to amend Chapter 321, Hawaii Revised Statutes, in order to clarify that the responsibility and authority for the administration of mental health services for children and youth reside with the Children's Mental Health Services Branch, Department of Health.

Supportive testimony stated that this bill would facilitate the development of service categories as a more functional organization than age groupings. The attempt at merging efforts and resources between the Department of Health and the Department of Education is particularly important in servicing handicapped individuals.

Your Committees on Health and Education are in accord with the intent and purpose of S.B. No. 613 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Anderson and Yee.

SCRep. 174 Health on S.B. No. 231

The purpose of this bill is to amend Chapter 321, Hawaii Revised Statutes, by establishing a certified home health care program. The program would be administered by an agency which is to be qualified under provisions of Title XVIII of the Social Security Act. It includes a licensing procedure and mandates insurance coverage for home health care services.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 231 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 Yee.

SCRep. 175 Health on S.B. No. 384

The purpose of this bill is to appropriate \$80,000 from the general revenues of the State of Hawaii for Grants-in-Aid to Molokai General Hospital for 1979-1980.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 384 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 Yee.

SCRep. 176 Health on S.B. No. 965

The purpose of this bill is to amend Section 235-54, Hawaii Revised Statutes, by increasing the amount that can be deducted in lieu of the personal exemption allowed by the Internal Revenue Service for deaf, blind, or any person totally disabled from \$7,000 to \$10,000.

The Department of Taxation expressed concern since the exemption level had been raised a year ago from \$5,000 to \$7,000.

We recognize the hardships faced by disadvantaged persons, and seek ways to aid those individuals.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 965 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 Yee.

SCRep. 177 Health on S.B. No. 1537

The purpose of this bill is to make the necessary technical changes to Act 226, Session Laws of Hawaii 1976, and Act 9, Session Laws of Hawaii 1977, to enable the Department of Health to release the funds appropriated to the Kapiolani Children's Medical Center.

Although the Legislature indicated its support for the Kapiolani Children's Medical Center by appropriating funds for facilities, a recent Attorney General's opinion states that the present language of the Acts precludes the Department from releasing the money.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1537 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 Yee.

SCRep. 178 Health on S.B. No. 1785

The purpose of this bill is to amend Section 246-31, Hawaii Revised Statutes, by increasing the real property tax exemption for persons with impaired sight or hearing and persons totally disabled from \$15,000 to \$30,000.

It is also the intent of this bill to include property owned jointly by those individuals deemed eligible under the statute.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1785 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 Yee.

SCRep. 179 Human Resources on S.B. No. 453

The purpose of this bill is to appropriate \$10,000 to provide a grant-in-aid to the Policy Advisory Board for Elderly Affairs for financial support of Older Americans Month activities.

Your Committee finds that the month of May is designated as Older Americans Month by the President of the United States and the Governors of the respective states. During this month a variety of local and State activities are carried out to commemorate the contributions made by Older Americans. Such activities include a Law Day, Proclamation Signing Day, "Images on Aging" photography contest for high school students, and a luncheon honoring eight outstanding older Americans from the four counties of the State.

Your Committee further finds that the Older Americans Month Planning Committee annually experiences difficulty in acquiring the necessary financial support from private donors to subsidize and reduce luncheon costs for the elderly on fixed and meager incomes. In addition, costs are incurred for airfares for neighbor island Honorees, land transportation, printing of tickets, programs, certificates and biographies of Honorees, leis for the Honorees and other dignitaries who participate in the program.

Your Committee recommends that a portion of this cost be borne by the State, rather than have members of the Policy Advisory Board for Elderly Affairs using their private funds to defray expenses.

Your Committee has amended the bill to provide for lapsing of funds as of June 30, 1980.

Your Committee is in accord with the intent and purpose of S.B. No. 453, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 453, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 180 Human Resources on S.B. No. 1392

The purpose of this bill is to allow persons paying placement fees to employment agencies in accordance with Regulation XXIII of the Department of Labor and Industrial Relations to obtain full tax credit for such fees paid.

Your Committee finds that at present, the employment agency placement fee is only deductible in an itemized tax return as a miscellaneous deduction. The individual who uses the standard deduction cannot deduct the fee paid in his return. By allowing a tax credit for fees paid to employment services, this measure would reduce one of the costs of job hunting, and perhaps encourage job seekers to use an employment service when the cost might otherwise discourage them from using this means to look for work. This measure would also provide an incentive for employers to list with commercial placement services. Demands on the state's job placement centers might also be alleviated.

Your Committee finds further that such an incentive for individuals to seek the services of a placement agency should promote a better environment for matching potential employees with employers thus creating a desirable market efficiency, and possibly reducing the state's unemployment rate.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1392 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 Consumer Protection and Commerce on S.B. No. 518

The purpose of this bill is to delete an exemption to the limitation of action given surveyors under Section 657-8.

Your Committee is in agreement that surveyors should be included under Section 657-8 and therefore subject to liability for the prescribed period of time.

Your Committee has decided to amend Section 657-8 further by extending the absolute time limit of any action on improvements to real property from a period of six years to ten years from the date of the completion of the improvements. The Committee is of the feeling that matters having to do with real property are usually complex and lengthy, necessitating a longer period in which possible judicial action would arise.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 518, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 518, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Yee.

SCRep. 182 Consumer Protection and Commerce on S.B. No. 656

The purpose of this bill is to increase the registration fee as well as the fee for annual partnership statements to meet the costs of providing the requisite service.

Your Committee is in agreement with the testimony presented by the Department of Regulatory Agencies which clearly indicated that the cost needed to administer these services exceeded the revenues generated by over 100%. This bill will bring about a balance between cost and revenue.

Your Committee has amended this bill by adding two provisions under Section 425-12 which were inadvertently left out of the original bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purposes of S.B. No. 656, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 656, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 183 Consumer Protection and Commerce on S.B. No. 748

The purpose of this bill is to prevent the erection, maintenance or display of any outdoor advertising on any construction sites except where required as a safety measure.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 748, 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. 184 Intergovernmental Relations on S.B. No. 778

The purpose of this bill is to provide for state mandates as required by Article VIII, Section 5, of the State Constitution. The Bill defines state mandate as any legislative action which requires a local government to establish, expand, or modify its activities in such a way as to necessitate additional expenditures by the local government.

This bill provides that the State shall pay the full cost of such a mandate for the first year and a reasonable cost thereafter.

The bill also requires the Department of Budget and Finance to compile a catalogue of existing state mandates and to continually update it and also requires any proposal submitted by the executive branch and any standing committee report on third reading on a bill which will result in a state mandate to contain an estimate of the cost of the mandate, the policy objective, and the reasons why such any objective cannot otherwise be accomplished.

This bill further requires an annual review of state mandates by the Director of Finance to determine their continued necessity and a report to the Governor and the Legislature and provides for payments to the local governments.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 778 and recommends that it pass Second Reading and be referred jointly to the Committees on Judiciary and Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 185 Intergovernmental Relations on S.B. No. 163

The purpose of this bill is to repeal Section 94-6, Hawaii Revised Statutes. Section 94-6 requires every agency of the State or counties to notify the State archivist of the initiation of every study conducted by such agency. This requirement has proved to be an unnecessary burden upon each agency.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 163 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 186 Intergovernmental Relations on S.B. Nos. 600, 640 and 643

The purpose of these bills is to make appropriations for water and other projects for the counties of Maui and Hawaii. The sums involved are \$3.8 million and \$250,000 for Maui county projects and \$950,000 for Hawaii county projects.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. Nos. 600, 640, and 643, and recommend that they pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 187 Intergovernmental Relations on S.B. No. 664

The purpose of this bill is to provide the various county attorneys and other child support enforcement officials with the statutory authority to seek wage assignments from delinquent parents.

This is an administration proposal designed to reduce the drain on the public coffers due to the payment of public assistance. In recent months it has become increasingly evident that there is a need to seek wage assignments from delinquent parents whose children are receiving public assistance benefits.

Your Committee on Intergovernmental Relations 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. 188 (Majority) Human Resources on S.B. No. 753

The purpose of this bill is to amend Part II of chapter 88 (Retirement for Public Officers and Employees), by adding a new section to provide that any member who has rendered honorable military service, which is not otherwise creditable to him, may purchase an amount of membership service credit not to exceed four years for time spent in military service, provided he is not receiving a military pension.

Your Committee finds that under present law, certain military service is recognized as membership service: (1) military service, when an employee is inducted into the Armed Forces while a member of the System in which event the employer government contributes to the account of the member during his leave of absence; (2) military service during the period 1941-1949 if the person, although an employee of the State or county government, was not a member of the System at the time of his induction into the Armed Forces. Such service must be purchased by the member and is restricted to four years.

Your Committee also finds that this bill proposes a third type of military service which may be purchasable as membership service. This bill limits purchase to four years of military service according to the following provisions: (1) any member with 15 years of credited service may purchase up to two years of membership service credit; (2) any member with 20 years of credited service may purchase up to three years of membership service credit; (3) any member with 25 years of credited service may purchase up to four years of membership service credit.

Your Committee has made technical amendments to this bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 753, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 753, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 189 Human Resources on S.B. No. 756

The purpose of this bill is to allow a member of the State's retirement system to retire after 30 years of credited service, at any age, without any reduction in retirement benefits.

Your Committee finds that there are presently about 1,883 employees who have 30 years of creditable service and would immediately be eligible to take advantage of such a provision. Furthermore, vacancies created by those electing to retire under this bill would have the effect of opening up entry level positions in public employment, thus resulting in cost savings to the State (an entry level employee is compensated at a lesser salary than a 30-year worker).

Your Committee further finds that government workers who have 30 years of creditable service should be recognized for their contribution to public service and should not be penalized for such retirement.

Your Committee has made technical amendments to the bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 756, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 756, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 190 Human Resources on S.B. No. 816

The purpose of this bill is to appropriate \$280,000 to the Kapahulu Multipurpose Center; to amend Section 305, Hawaii Revised Statutes, by adding a section to permanently establish the Center under the Executive Office on Aging, and to grant civil service status to the Center's director and other appropriate and necessary personnel.

Kapahulu Multipurpose Senior Center is presently a demonstration project which is funded three months at a time. It is a SCET funded program administered by the Manpower Training Office. The Center's major goal is to provide recreational and social activities for senior citizens who are confined and unable to get about. Membership as of February 3, 1979 exceeded 675.

Your Committee finds that the Center is filling a real need in the Kapahulu Community by providing these services to the elderly. Funding of the Center would enable it to maintain these worthwhile services.

Your Committee has amended this bill to delete the provisions of this bill which would establish the Center as a State facility and would grant civil service status to its personnel. The Center is operating very successfully under its present organizational arrangement and there appears to be no need to permanently establish the Center under the Executive Office on Aging. Further, your Committee feels that the nature of the positions at the Center does not lend itself to granting the personnel coverage under Chapters 76 and 77. In addition this bill has been amended to designate the Executive Office on Aging as the expending body for the appropriation. Because the Office acts as an advocate for all elderly in the State, it would be more appropriate for it to assume this responsibility.

Your Committee has further amended this bill to reduce the appropriation to \$139,000 to cover the Center's operating costs for the 1979-81 biennium; any unexpended or unencumbered balance of this appropriation as of the close of business on June 30, 1981, shall lapse into the general fund.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 816, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 816, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 191 Human Resources on S.B. No. 1258

The purpose of this bill is to provide funds for the continuation of chore and escort services for the elderly in Hawaii County.

Your Committee finds that there are many elderly persons in Hawaii County who are unable to care for themselves or to perform routine duties such as housework, shopping and visiting the doctor. The problem is especially apparent in the rural areas where transportation is limited. To alleviate this problem, five workers from the Hawaii County Office on Aging provide chore and escort services to these elderly persons. Without the aid of these workers, these elderly persons may be left with no alternative but institutionalized care.

Your Committee further finds that funding for these five positions will cease in September, 1979. Your Committee feels that these workers are providing valuable services to the elderly and that these positions should continue with the aid of State funding.

Your Committee has amended this bill to provide that \$48,000 be appropriated for the funding of these 5 positions.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1258, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1258, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 192 Human Resources on S.B. No. 1274

The purpose of this bill is to amend Chapter 87 (Public Employees Health Fund), by adding a new section to authorize the transmittal of children's dental plan contributions to the dental plans of employee organizations.

Your Committee finds that this proposed transmittal or sending of funds to employee organizations is identical to current operations of the life insurance plan authorized by Section 87-23. In the life insurance plan, an employee may choose to send his monthly subsidy to: (1) his employee organization plan, or (2) leave it with the Health Fund's Life Insurance Plan. The employee may also elect not to enroll to receive this subsidy.

Your Committee also finds that this bill provides that an employee may likewise send the monthly subsidy for his children's dental plan to: (1) his employee organization's dental plan; or (2) leave it with the Health Fund's Children's Dental Plan. The employee may also elect not to enroll his children for this benefit plan.

Your Committee further finds that a number of employee organizations are presently considering establishing their own dental programs or have already implemented them. This bill would enable the children of public employees (who are enrolled in their employee organization's dental program) to go to the same dentist for dental care with their parents. In addition, your Committee finds that no significant impact in terms of cost or program operations is expected. Further, the amount of dental contributions is limited by statute, and the explanation and addition of a new plan code number can be readily handled by the Health Fund program staff.

Your Committee has made technical amendments to this bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1274, and amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1274, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 193 Human Resources on S.B. No. 1306

The purpose of this bill is to appropriate funds for the construction of new facilities for a Waimanalo Community Multi-Purpose Center.

Your Committee finds that the present facility in Waimanalo, was recently condemned. This facility has been used to provide the community with access to food stamp and welfare programs, unemployment information, medical services, and recreational and educational activities.

Your Committee further finds that there is a need to maintain these services for the community. A new multi-purpose center would ensure the maintenance of current programs and services being offered to the community.

Your Committee has amended this bill to provide that \$1,700,000 be appropriated for construction of this new facility.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1306, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1306, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 194 Human Resources on S.B. Nos. 1307 and 1692

The purpose of these bills is to provide appropriations to various social service agencies throughout the State. Appropriated monies shall be used for plans and construction of facilities or for operations of these agencies, whichever instance is applicable.

Your Committee on Human Resources is in accord with the intents and purposes of the foregoing 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. 195 Human Resources on S.B. No. 1394

The purpose of this bill is to appropriate \$95,997 to provide State funds to match Federal Title XX monies for the operations of the Children's Center Incorporated, Oahu.

Your Committee finds that the Children's Center is presently one of the Purchase of Service (P.O.S.) day care center providers under Title XX. This Center provides preschool services for those families approved by the Department of Social Services and Housing and with incomes less than sixty per cent of the State's median income. Furthermore, over 2/3 of the children currently enrolled at the Center are either abused cases or have learning disabilities.

Funds are needed to conform the Center's operations to Federal standards and requirements. Over the past two years, matching State funds were reduced, thereby making it difficult to meet such Federal and professional regulations such as the one-to-five teacher-pupil ratio and the health and nutritional components which play essential roles in these types of day care programs.

This bill appropriates the necessary funds to operate the Children's Center at current service levels within the standards provided under current Federal regulations.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1394 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. 196 (Majority) Human Resources on S.B. No. 1397

The purpose of this bill is to increase the daily per diem rate for State officials and representative (does not include elected public officials) from \$40 to \$50 for out-of-state travel and from \$30 to \$40 for inter-island travel; and to increase the maximum amount allowable for daily living expenses from \$45 to \$60 for travel within the United States and to \$80 for travel to foreign countries or to any United States possessions or territories.

Your Committee finds that present per diem rates for State officials were established in 1969. Due to inflation, living expenses have increased since then and it is now very difficult to live on the current allowable per diem. Daily hotel rates and other living expenses often exceed the present per diem allowance. At times, public employees have had to absorb some of these expenses out of their own pockets.

Your Committee notes that this bill does not pertain to traveling expenses of legislators. Allowances for legislators are covered under Chapter 24.

Your Committee has made technical amendments to this bill without changing the substance to correct the placement of the phrase, "but neither for more than [\$45] \$60 per day", which was incorrectly positioned in this bill.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1397, as amended herein, and recommends that it pass Second Reading in the form attached hereto, as S.B. No. 1397, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 197 Human Resources on S.B. No. 1399

The purpose of this bill is to amend the list of employees to be excluded from the various collective bargaining units by changing the definition of a part-time employee who works less than 1/2 time from "less than twenty hours per week" to "less than one half of a full-time equivalent of forty hours a week".

Your Committee finds that it was the intent of the legislature in determining who was to be included in the various collective bargaining units that employees working less than half time were to be excluded. The language currently reflects this by stating that those employees who work "less than twenty hours a week," out of forty, were to be excluded.

At this time, the employees in collective bargaining unit 5, teachers of the DOE, have a work week of 35 hours, and consequently, those persons working half-time only work 17 1/2 hours per week, thus excluding them from the bargaining unit under current law. It is the intent of this Committee that such employees who work on a half-time basis be included in the appropriate bargaining unit.

Your Committee further finds that the language proposed by this bill to reflect the intent of the Committee requires clarification, and has amended this bill accordingly. Nonsubstantive, technical amendments have been made to bring this bill into conformance with Act 80, SLH 1978.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1399, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1399, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 198 Human Resources on S.B. No. 1406

The purpose of this bill is to appropriate funds to continue the long-term residential and emergency placement services provided for juvenile offenders at Hale Opio on Kauai.

Your Committee finds that Hale Opio is the only such neighbor island facility for juveniles who are unable to live at home due to problems which include abuse, neglect, educational deficiencies, physical and emotional deprivation and drug or alcohol involvement.

During 1978, a total of 22 individuals were placed at Hale Opio primarily as an alternative to incarceration. In addition, the facility provided emergency placement services to 7 youths who were referred by the Kauai County Police Department and the Family Court, Fifth Circuit. To date, Hale Opio has serviced a total of 133 youths since its inception in 1975: 81 individuals on long-term residency and 52 emergency placements.

Your Committee notes several recommendations in the State of Hawaii Juvenile Justice Plan apply to the services provided at Hale Opio. For example, the program is based on in-community treatment which diverts youthful offenders from institutionalization. The program further provides for reintegration into the community by allowing its youths to attend public schools.

Your Committee feels that this type of setting is more conducive to rehabilitation than institutional confinement. Hale Opio provides a valuable alternative in the juvenile justice system.

Your Committee has amended this bill to reflect that the sum of \$20,000 be appropriated for a grant-in-aid to Hale Opio.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1406, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1406, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 199 (Majority) Human Resources on S.B. No. 1412

The purpose of this bill is to change the funding methods for the Medical Plan and the

Children's Dental Plan to allow employers to pay 50% of the monthly Medical Plan contribution for each of their respective employee-beneficiaries, and for each respective employee-beneficiary with a dependent-beneficiary; and to allow employers to pay 100% of the monthly contributions to the Children's Dental Plan.

Your Committee finds that when the Medical Plan was established in 1962, public employers' contributions approximated 50% of the then existing HMSA and Kaiser premiums. Subsequent adjustments have been made to approximate this 50% rate. Further, Act 235 of the 1965 Session added the Children's Dental Plan, and subsequent adjustments of employer contribution rates approximated a 100% employer contribution rate.

Your Committee also finds that presently the public employer's monthly contribution is \$11 for the Self-Only and \$34.50 for the Family health plans; these dollar amounts were calculated to approximate a 50% monthly contribution. The public employer's monthly contribution for the Children's Dental Plan is \$3.74 per enrolled child; this dollar amount was also calculated to approximate a 100% monthly contribution. However, health plan and Children's Dental plan premiums have recently increased to the point where these dollar amounts no longer approximate 50% and 100% monthly premiums respectively.

Your Committee feels that the percentage formulas as provided in this bill would preclude enactment of legislation every session to conform the dollar amounts of the public employer's monthly contributions to approximate 50% and 100% of the monthly premium every time premium rates are increased.

Your Committee further finds that the estimated cost to implement this bill is \$2,454,000 for the Medical Plan and \$320,300 for the Children's Dental Plan for the biennium.

Your Committee has amended this bill to provide that \$2,774,300 be appropriated to cover the costs of implementing this bill. Your Committee has also made technical amendments to this bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1412, as amended herein, and recommends that it pass Second Reading in the form attached hereto, as S.B. No. 1412, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 200 Human Resources on S.B. No. 1465

The purpose of this bill is to appropriate funds for the purpose of implementing a program for displaced homemakers, including job training and education, and employment of individuals who are forced to enter the job market after being homemakers for a substantial number of years.

Your Committee finds that a study conducted under the auspices of the State Commission on the Status of Women has shown that there are over 14,500 displaced homemakers in the State of Hawaii, of which more than 6,000 were found to be in need of employment assistance.

The study, in analyzing the proposed target group of the program stated, "Women who have fulfilled their roles as homemakers may find themselves in their middle years "displaced" through divorce, widowhood, or other loss of family income. They are ineligible for Aid to Families with Dependent Children (AFDC) if their children are over 18 years of age. They are ineligible for unemployment insurance because they have been engaged in unpaid labor in the home. They are often ineligible for Social Security and health plan benefits because they are too young. These women confront employment discrimination because they are women, are older, and have had no recent paid work experience. Consequently, they are subject to one of the highest unemployment rates of any sector of the work force."

Your Committee further finds that a sum of \$77,500 is necessary to implement this program, and has amended this bill accordingly.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1465, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1465, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 201 Human Resources on S.B. No. 1528

The purpose of this bill is to appropriate \$100,000 to build a new Easter Seal facility on the island of Hawaii.

Your Committee finds that the present Easter Seal facility was built approximately sixty years ago. The State Health Planning Department Agency recently conducted a preliminary need survey based on on-site observations of the facility; findings of this survey assess the need for a new building. Furthermore, the present facility was unable to meet the building requirements and regulations of the County of Hawaii.

Your Committee further finds that the present facility cannot accommodate the current workload of the Easter Seal Society. Due to lack of space, Easter Seal has been utilizing another building approximately 1 1/2 miles away. Nearly 40 clients are served per day at these two facilities, but staff has been hindered in providing maximum services due to the time spent in traveling to and from these buildings.

Your Committee further notes that the present facility was not built for rehabilitative purposes. In the past, the building was used as a woodshop, band room, and for Red Cross storage. The Easter Seal Society services clients with handicaps such as arthritis, muscular dystrophy, polio and neurological disorders.

Your Committee feels that more effective services could be provided in a building which is properly designed to meet the needs of the clients.

Your Committee is in accord with the intent and purpose of S.B. No. 1528 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. 202 Human Resources on S.B. No. 1605

The purpose of this bill is to appropriate funds for the Senior Citizens Housing Facility in Naalehu, Hawaii.

Your Committee has amended this bill to provide that \$50,000 be appropriated for the housing facility.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1605, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1605, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 203 Ecology, Environment and Recreation on S.B. No. 483

The purpose of this bill is to amend Chapter 8, Hawaii Revised Statutes to designate the first Friday in November as Arbor Day. The bill also provides that this day is not and shall not be construed to be a state holiday. Arbor Day is to be a day set aside for planting trees.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 483 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. 204 Ecology, Environment and Recreation on S.B. Nos. 466, 815, 833, 940, 1009, 1010, 1039, 1040 and 1041

The purpose of these bills is to appropriate funds for the above-mentioned projects.

Your Committee finds that funding of the foregoing projects are necessary to provide for the recreational needs of the people of our State.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. Nos. 466, 815, 833, 940, 1009, 1010, 1039, 1040, and 1041, and recommends that these bills pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators George and Yee.

SCRep. 205 Ecology, Environment and Recreation on S.B. No. 1594

The purpose of this bill is to amend Chapter 342 of the Hawaii Revised Statutes to make it consistent with the requirements of the Clean Air Act Amendments of 1977 (P.L. 95-95), Section 110 (a) (2) (k).

Your Committee heard testimony from Edward J. Lui, Director of the Hawaiian Sugar Planters' Association who opposed passage of the bill as drafted. As presently written, the amendment would apply to every permit and variance issued by the Department of Health under Chapter 342.

Your Committee is in agreement with the testimony and believes that the act should be restricted to only those permits and variances issued under the air pollution rules, and recommends an amendment to read as follows:

Change page 1, lines 5-14 to read as follows:

SECTION 2. Chapter 342, Hawaii Revised Statutes, is amended by adding a new section to Part II AIR POLLUTION to read as follows:

"Section 342- Fees. The director may, in addition to the fees established under Section 342-4, establish reasonable fees for the implementation and enforcement of the terms and conditions of permits and variances issued under this Part (not including court costs or other costs associated with any formal enforcement action). The fees shall be deposited to the credit of the general fund."

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1594, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1594, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 206 Consumer Protection and Commerce on S.B. No. 654

The purpose of this bill is to allow for the biennial rather than annual licensing of securities salesmen and dealers.

Your Committee is in agreement that the Business Registration Division of the Department of Regulatory Agencies is undermanned. Biennial licensing would not affect the Department's power to discipline errant licensees and has worked quite satisfactorily for many other licensing professions.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 654 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 Yee.

SCRep. 207 Consumer Protection and Commerce on S.R. No. 19

The purpose of this resolution is to review the status of the Industrial Loan Company Guaranty Act.

Your Committee has amended this resolution in order to keep itself abreast of the status of this Act. The Committee requests a yearly status report to be prepared by the Department of Regulatory Agencies which shall in addition include, in the 1980 report, the sum used to assist Imperial Finance Company and the sum that has been reimbursed back into the fund from this transaction.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. 19, S.D. 1, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. 19, S.D. 1.

Signed by all members of the Committee except Senator Yee.

SCRep. 208 Consumer Protection and Commerce on S.R. No. 68

The purpose of this resolution is to request the Senate Committee on Consumer Protection and Commerce to review public concerns relating to horizontal property regimes and

to report its findings with appropriate legislation prior to the commencement of the 1980 legislative session.

Your Committee finds that consumer problems still exist within the current horizontal property regimes law.

Your Committee agrees to amend the completion date of the review and recommendation from prior to the adjournment of the 1979 regular session to prior to the commencement of the 1980 regular session to give committee members and appropriate representatives the time needed to study and respond to the report entitled: "A Study of Problems in the Condominium Owner-Developer Relationship".

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 68, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 68, S.D. 1.

Signed by all members of the Committee except Senator Yee.

SCRep. 209 Ecology, Environment and Recreation on S.B. No. 92

The purpose of this bill is to appropriate moneys out of the general revenues of the State for the improvement of the birth site of Kamehameha the Great.

Your Committee heard testimony from Susumu Ono, Chairman of the Board of Land and Natural Resources, who supported the bill subject to the conditions set forth by the Warranty Deed dated April 12, 1978, between Helen Evalani Puhi Rickard, the Grantor of the Kamehameha I Birth Site, and the State of Hawaii.

Your Committee amended the bill by inserting the amount to be appropriated, \$50,000.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 92 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 92, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 210 Ecology, Environment and Recreation on S.B. No. 762

The purpose of this bill is to appropriate \$200,000 for small boat facilities at the Wailoa River Park.

In written testimony, Susumu Ono, Chairman of the Board of Land and Natural Resources supported the bill and recommended that general obligation bonds be authorized for this project.

Your Committee agreed with the recommendation and the bill was amended to provide funding from the general obligation bond fund.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 762 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 762, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 211 Ecology, Environment and Recreation on S.B. No. 929

The purpose of this bill is to appropriate \$60,000, for a grant-in-aid to the Friends of Waipahu Cultural Garden Park to sustain its educational exhibits program.

Your Committee amended the bill to provide a lapse date of June 30, 1982.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 929, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 929, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 212 Ecology, Environment and Recreation on S.B. No. 1225

The purpose of this bill is to appropriate funds for a grant-in-aid to the city and county of Honolulu for the planning and designing of a meeting-general purpose room at the McCully Recreation Center, Oahu. The city and county of Honolulu is to provide matching funds.

Your Committee received testimony that there is high utilization of the existing facilities and a demand for more space.

Your Committee amended the bill by inserting the amount to be appropriated, \$50,000.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1225, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1225, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 213 (Majority) Ecology, Environment and Recreation on S.B. No. 1423

The purpose of this bill is to appropriate general funds for the purchase of prime beach front property at West Beach, Ewa, Oahu.

Susumu Ono, Chairman of the Board of Land and Natural Resources, in written testimony, has stated that the beachfront property will have to be assessed for its recreational value and the amount of back-up land required to support a public park before a determination can be made as to the required funding needs for its purchase. The study would require \$60,000 in planning funds to be followed by land acquisition in subsequent years.

Your Committee is in agreement with the request and amended the bill to appropriate funds for planning purposes and to provide a lapse date of June 30, 1982.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1423 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1423, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Yee did not concur.

SCRep. 214 Government Operations and Efficiency on S.B. No. 118

The purpose of this bill is to terminate those professional and occupational boards and commissions which have outlived their usefulness.

Chapter 26H, the Regulatory Licensing Reform Act, provides that, enabling statutes for boards be reviewed to determine whether the public interest requires that the statutes be reenacted, modified or permitted to expire. This bill covers Chapter 437 H.R.S. Motor Vehicle Industry Licensing Board, Chapter 440 H.R.S. Boxing Commission, Chapter 443 H.R.S. Collection Agencies Board, Chapter 446D H.R.S. Degree Granting Institutions, Chapter 448H H.R.S. Elevator Mechanics Licensing Board, Chapter 467A H.R.S. Rental Agencies and Chapter 452 H.R.S. Board of Massage.

Your Committee adopted the recommendations contained in the regulatory impact statements submitted to the Legislature by the affected board or agency pursuant to section 26H-5. It is recommended that Chapter 467A, Rental Agencies and Chapter 446D, Degree Granting Institutions be repealed as of December 31, 1979. It is further recommended that Chapter 437, Motor Vehicle Industry Licensing Board, Chapter 440, Boxing Commission, Chapter 443, Collection Agencies Board, Chapter 448H, Elevator Mechanics, and Chapter 452, Board of Massage, be reenacted until December 31, 1984.

It is further recommended that a new chapter be enacted requiring unaccredited degree granting institutions to disclose the fact that they are unaccredited to protect the public interest.

It is further recommended that Chapter 448H, Hawaii Revised Statutes, be amended to change the composition of the elevator mechanics licensing board to consist of seven members: three licensed elevator mechanics, three lay members, not connected or associated with the elevator or building industry, and the branch manager of the Technical Inspection Branch, Division of Occupational Safety and Health, Department of Labor and

Industrial Relations.

The purpose of this amendment is to broaden opportunity for input of consumer complaints.

Your Committee amended the bill in accordance with the above recommendations.

Your Committee on Government Operations and Efficiency is in accord with the intent and purpose of S.B. No. 118, and recommends that it pass First Reading by title in the form attached hereto as S.B. No. 118, S.D. 1, be printed and be referred to the Committee on Consumer Protection and Commerce for further consideration.

Signed by all members of the Committee.

SCRep. 215 Government Operations and Efficiency on S.B. No. 429

The purpose of this bill is to establish standards for purchases of services, grants, and subsidies.

Your Committee finds that support by the legislature of private organizations has increased significantly in recent years, amounting to some \$3.2 million in the current fiscal year. For some time, the legislature has been aware of the problems created by the growing number of requests for public support of private programs ranging from health care to social services to culture and the arts. Many of these programs appear to be worthwhile and in the public interest, but, with limited resources, the legislature has faced the recurring dilemma of trying to determine which programs should be supported and at what levels of support.

Legislative leaders brought this problem to the attention of the 1978 Constitutional Convention. They proposed that additional language be added to the "public purpose clause" of the State Constitution. The result is that Article VII, section 4, of the State Constitution now requires that "no grant of public money or property shall be made except pursuant to standards provided by law." This bill will provide the standards mandated by the State Constitution.

Senate Bill No. 429 defines the kinds of funds, or transfers, to be made available to private recipients or providers. These are purchases of services, grants, and subsidies. They are differentiated according to the purpose for the funding. Purchases of services are made to purchase goods and services to be delivered by a provider to the general public or specified members of the general public. Grants and subsidies are made to stimulate and support activities of recipients which are in accord with specified public purposes.

The bill establishes general conditions for all transfers, including compliance with nondiscrimination laws, applicable licensing and accreditation requirements, and financial disclosure. Procedures are established for the review, analysis and recommendation, and appropriation of funds for requests for transfers. Before a request for a transfer can be considered by a legislative body, it must be submitted to an agency for its review, analysis, and recommendation on the costs, effectiveness, and the benefits of the proposed transfer. Agencies are to prepare a statement of findings and recommendations for each request. Requests which are approved by the agency are incorporated in the budget submitted to the executive. The bill further establishes the responsibilities of government agencies for making fair and proper allotments, executing contracts in accordance with legislative intent and public purpose, and for monitoring and evaluating transfer programs.

Upon review, your Committee has determined that the following substantive changes should be made:

1. The Constitution requires that no grant of public money or property shall be made except pursuant to standards provided by law. The provision applies to all public funds. This means that all appropriations of public funds must be made in accordance with standards, whether these appropriations are made at the state level or at the county level. Nor does the Constitution restrict this requirement to appropriations made only to executive agencies. For this reason, your Committee has amended the bill to include appropriations made by all legislative bodies at both the state and county levels and to include the judiciary as well. Within their own administrative framework, the counties and the judiciary will follow procedures similar to those specified for the executive branch of the State.

2. The procedures for the required review of requests for transfers have been clarified. All requests for transfers are to be submitted to the appropriate director of finance or to the administrative director of the courts in the case of the judiciary. The directors

shall then transmit the requests to an appropriate agency for review and analysis. The directors shall prescribe the forms to be used and establish policies and guidelines defining the conditions for transfers and the analysis required of requests. Each agency is to prepare a statement of findings and recommendations based on its analysis of the request. These are transmitted to the chief executive. All requests approved by the chief executive are included in the executive budget submissions to the legislative bodies.

3. To ensure that private requestors are given an opportunity to participate in this process and to ensure that they are given timely information on the status of their requests, the bill has been amended to require the agency to invite the participation of the requestor in the review process and to provide the requestor with an opportunity to comment on the agency's analysis. Copies of the statements of findings and recommendations of the agency and the chief executive are to be furnished to the requestor.

4. Since the bill sets forth a new process for reviewing requests for transfers and substantially changes the manner in which appropriations are made to private recipients and providers, its implementation should be carefully monitored and evaluated. Your Committee has designated the office of the legislative auditor to undertake this responsibility and to submit status reports on its findings to the 1980 and 1981 regular sessions.

Your Committee on Government Operations and Efficiency is in accord with the intent and purpose of S.B. No. 429, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 429, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Toyofuku.

SCRep. 216 Legislative Management on S.B. No. 517

The purpose of this bill is to establish a Hawaiian Affairs Advisory Committee which shall advise the legislature of the nature of the administration, programs, and activities that the Office of Hawaiian Affairs should possess.

Article XII of the Constitution of the State of Hawaii titled "Hawaiian Affairs" requires substantial legislative implementation.

The bill establishes an Advisory Committee of eleven members which shall report its findings and recommendations to the legislature after the convening of the 1980 session of the legislature.

The bill appropriates \$37,000 to be expended by the legislative reference bureau.

Your Committee on Legislative Management is in accord with the intent and purpose of S.B. No. 517, 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. 217 (Joint) Government Operations and Efficiency and Legislative Management on S.B. No. 87

The purpose of the bill is to achieve legislative oversight concerning executive rule-making so that the enactment of executive rules and regulations implement the statutes as intended by the Legislature.

The testimony of Ludwig Armerding, representing the Hawaii members of the National Federation of Independent Business, indicated that the promulgation of unnecessary or poorly drafted rules and regulations create vast amounts of work, thereby increasing the costs of doing business, which increased costs are passed on to the consumers of this State.

The office of the Legislative Auditor indicated that in their opinion the Legislature should not be involved in the executive rule-making function. Therefore, the review procedure should not occur prior to the Governor's approval of agency rules and regulations, but should occur subsequent to such approval. If the rule or regulation should be found to contravene the legislative intent, the Legislature can subsequently amend the statute so as to clarify their intent and thereby invalidating any existing non-conforming rules and regulations. They also recommended that since review of executive rule-making would be a post-auditing function, the reviewing should be done by their office alone rather than by a cooperative effort with the Legislative Reference Bureau, whose

research function would have been done by the Attorney General's office prior to the Governor's approval.

Your Committees adopted the recommendations of the Legislative Auditor by amending Section 2(a) of the bill by substituting in line 5 the word "after" in place of "prior to," by removing all references to the Legislative Reference Bureau in Section 2(a) and (b) and by deleting Section 4 in its entirety; by substituting in Section 5(b) and in Section 6 "Legislative Auditor" in place of "Legislative Reference Bureau;" and by adding a new subsection to Section 3 as follows:

"(d) The Auditor shall maintain and keep current a compilation of all rules and regulations adopted pursuant to chapter 91."

For the purpose of achieving drafting uniformity to facilitate agency review, your Committees further recommend that Section 2(a) be amended by inserting a comma after the word "thereof" in line 6 and adding the following phrase:

"which shall be drafted according to the Ramseyer format as set forth in House Rule 24(2) as amended,"

For the purpose of consistency your Committees also recommend that this Act should be further amended by changing Sections 5, 6, and 7 to Sections 4, 5, and 6, respectively.

The purpose of the bill, as amended, is to achieve legislative oversight concerning the executive rule-making function by allowing review by the Legislative Auditor's office subsequent to the Governor's approval of agency rules and regulations.

Your Committees on Government Operations and Efficiency and Legislative Management are in accord with the intent and purpose of S.B. No. 87, as amended, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 87, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senator O'Connor.

SCRep. 218 Ecology, Environment and Recreation on S.B. No. 334

The purpose of this bill is to appropriate \$80,000, for construction of a gymnasium complex in Keaukaha, Hilo, Hawaii.

Your Committee amended the bill to provide a lapse date of June 30, 1982.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 334 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 334, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 219 Ecology, Environment and Recreation on S.B. No. 408

The purpose of this bill is to appropriate funds for the construction of a new aquarium at a site to be determined.

Your Committee heard testimony from various members of the Friends of the Waikiki Aquarium; Clarence E. Beck, Executive Director, Downtown Improvement Association; Tommy Holmes, Aloha Tower Education Committee; and Dr. John Craven, Dean of Marine Programs, U.H. and State Marine Affairs Coordinator, all of whom supported the concept of a new aquarium. A presentation was made before the Committee by Leighton Taylor, Director of the Waikiki Aquarium, of a possible site of the new aquarium.

Your Committee is in agreement with the testimony and recommends that funds should be appropriated for planning and designing a new theme aquarium rather than for construction. Your Committee amended the bill accordingly.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 408, as amended therein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 408, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 220 Ecology, Environment and Recreation on S.B. No. 761

The purpose of this bill is to appropriate funds for the acquisition of historic property in the State of Hawaii.

In written testimony, Susumu Ono, Chairman of the Board of Land and Natural Resources recommended that the scope of the bill be broadened to include planning and construction activities.

Your Committee is in agreement with the recommendation and has amended the bill to provide for planning and construction and to provide an appropriation of \$50,000 for such activities.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 761, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 761, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 221 Ecology, Environment and Recreation on S.B. No. 959

The purpose of this bill is to appropriate \$100,000 for restoration, preservation, and maintenance of the Laupahoehoe Jodo Mission, the Ching-Hing Chinese Fraternal Society Building, the Old Kohala Courthouse, and other historic buildings and sites located in the third representative district as may be identified or designated by the Hawaii historic places review board and state foundation for history and the humanities.

Your Committee amended the bill to provide a lapse date of June 30, 1982.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 959, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 959, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 222 Ecology, Environment and Recreation on S.B. No. 1037

The purpose of this bill is to permit State or County agencies to replenish sand on public beaches from offshore sand deposits, and to remove superfluous provisions from the statutes.

Your Committee heard testimony from Doak C. Cox, Environmental Center; and Susumu Ono, Chairman, Board of Land and Natural Resources, both of whom are supportive of the measure.

Your Committee amended the bill as follows:

By deleting the words "in the vicinity," from Line 7 and "where it can be determined there would be no negative environmental impact," from Line 9 and 10 of the bill.

The first deletion was made because the bill as drafted unnecessarily limits mining for replenishment of a beach to the vicinity of the deposits to be mined. The second deletion was recommended because the requirement for an absolute determination of no negative environmental impact could not be met. Sand mining may be expected to have some adverse impact at least temporarily in the form of turbidity, sediment redistribution and other minor adverse impacts.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1037, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1037, S.D. 1, and be referred to the Committee on Economic Development.

Signed by all members of the Committee.

SCRep. 223 Ecology, Environment and Recreation on S.B. No. 1259

The purpose of this bill is to appropriate funds out of the general revenues of the State for the construction of a Panaewa Community Center at Panaewa, Hawaii.

Milton Hakoda, Director of the Department of Parks and Recreation of the County of Hawaii, in written testimony, requested that funds be appropriated to cover the design costs of the project because the construction of the center cannot be done in the next fiscal period.

Your Committee amended the bill to provide \$20,000 for design costs and to provide a lapse date of June 30, 1982.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1259 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1259, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 224 Ecology, Environment and Recreation on S.B. No. 1305

The purpose of this bill is to appropriate funds for a grant-in-aid to the City and County of Honolulu for various park improvements.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1305 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 Ecology, Environment and Recreation on S.B. No. 1529

The purpose of this bill is to provide funds for Lapakahi North Kohala State Park Complex, Hawaii.

Your Committee was informed that non-funding of the park project would result in termination of 49 people who reside in an area of high unemployment.

Your Committee amended the bill to provide for a lapse date of June 30, 1981.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1529 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1529, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 226 (Majority) Ecology, Environment and Recreation on S.B. No. 1590

The purpose of this bill is to appropriate moneys out of the general revenues of the State for the establishment of small arms firing ranges for recreational purposes. The appropriated funds will be reimbursable on a seventy-five (75%) basis on approved projects by the Federal Aid Program for Hunter Safety.

Your Committee heard testimony from Susumu Ono, Chairman of the Board of Land and Natural Resources, and Charles Phelps, Legislative Coordinator for the Pig Hunters Association of Oahu. Both parties supported the intent of this bill.

Your Committee amended the bill by inserting the amount to be appropriated, \$200,000.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1590 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1590, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 227 Ecology, Environment and Recreation on S.B. No. 1591

The purpose of this bill is to amend Chapter 343, Hawaii Revised Statutes relating to environmental assessments and statements.

Your Committee heard testimony from Donald A. Bremner, Chairman, Environmental Quality Commission; and Tyrone T. Kusao, Director, Department of Land Utilization,

City and County of Honolulu; both of whom supported this bill.

Your Committee is in agreement with the testimony and believes that the needed clarification of Chapter 343 is provided in this bill. This includes a clearly-worded statement of findings and purpose, a workable relationship between federal and state environmental requirements, a significant clarification of the limitation of action section, and a general editorial review of the language of the chapter.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1591 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 228 Ecology, Environment and Recreation on S.B. No. 1739

The purpose of this bill is to amend Section 188-31 of the Hawaii Revised Statutes by providing that permittees whose Aquarium Fish Permits are cancelled by the Board of Land and Natural Resources shall not be issued a new aquarium fish permit for a period of two years after the cancellation of the permit.

Testimony was heard from Doak C. Cox, Environmental Center; Leighton Taylor, Waikiki Aquarium; and Susumu Ono, Chairman and Member, Board of Land and Natural Resources, all of whom supported the bill.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of S.B. No. 1739 and recommends that it pass Second Reading and be referred to the Committee on Economic Development.

Signed by all members of the Committee.

SCRep. 229 Higher Education on S.B. No. 143

The purpose of this bill is to provide for an accounting to the Legislature by the University of Hawaii concerning expenditures on a fiscal year basis of all discretionary funds available to it or its offshoots.

The University of Hawaii testified before your Committee that it had no objection to providing reports regarding any aspect of its financial operations to the Legislature.

Existing statutes provide for the State Comptroller to publish annually in a newspaper of general circulation a statement of income and expenditure by funds and authorize the Comptroller to request all agencies, the Judiciary and the Legislature to provide such information as may be required for the preparation of the statements.

The University does provide to the Comptroller, at his request, a report of revenues and expenditures for each fund accounted for by the University of Hawaii for inclusion in the Comptroller's annual report.

The University also testified that detailed accounts for all public funds are maintained by the Comptroller and the University and can be made available readily to the Legislature. The University further testified that they do not maintain any accounting records for the University of Hawaii Foundation or the Research Corporation of the University of Hawaii. However, it was noted by the University of their testimony that the University of Hawaii Foundation and Research Corporation do prepare annual financial reports which can be provided to the Legislature.

Your Committee finds that while detailed accounts are maintained by the Comptroller and may be made available, the University of Hawaii and Comptroller are not required by statute to provide these reports to the Legislature.

Your Committee on Higher Education has agreed that Section 304-8, Hawaii Revised Statutes, should be amended to require accounting of the discretionary funds to the Legislature.

Your Committee has amended the purpose clause of the bill by inserting the word "to" following the word "available" and has deleted the phrase "or its offshoots". The reason for deleting the phrase "or its offshoots", is that the University of Hawaii indicated that the University of Hawaii Foundation and Research Corporation does prepare annual financial reports which can be provided to the Legislature.

Your Committee on Higher Education is in accord with the intent and purpose of S.B.

No. 143, as amended herein and recommends that it pass First Reading by title, in the amended form attached hereto, be printed and be referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 230 Higher Education on S.B. No. 344

The original purpose of this bill was to permit intradepartmental transfers of funds within the University of Hawaii system only if those transfers were between programs exclusive of the instruction and organized research areas. Transfer would be permitted only between service and support programs.

Your Committee heard testimony from the President of the University of Hawaii that an absolute prohibition against transfers of funds into or out of the instruction or organized research programs might be too restrictive. Further, the President of the University testified that transfers under emergency conditions would not be possible under the provisions of this bill.

Your Committee finds that thousands of dollars previously have been utilized, by the transfer process, to cover increased utility costs and other "unanticipated" costs at the expense of the instructional area. Your Committee further finds that it is not advisable to transfer funds available to the instruction and organized research areas to other areas of the University which are not crucial and essential to the mission of the University.

Your Committee has amended the bill to provide that Chapter 304, be amended by adding a new section which prohibits transfers of instruction or organized research funds to service and support programs.

In conformance with the amendment, Section 1 of the bill is also amended by amending the purpose clause. The amended form of this bill would not prohibit transfers of funds from other areas into the instruction and organized research programs.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 344, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 344, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 231 Higher Education on S.B. No. 411

The purpose of this bill is to provide for the retention and administration by the University of Hawaii of all administrative and overhead costs included in grants to the university.

In 1974, the legislature adopted Senate Bill No. 2024-74, which established a University of Hawaii research and training revolving fund into which was to be deposited 10 percent of all income up to a maximum of \$200,000 annually from indirect overhead sources on account of all University held federal and other research and training contracts and grants.

Currently, each time the University of Hawaii accepts an extramural grant or contract, the University explicitly agrees to pay certain shared costs. The Federal government is aware of the fact that research generates the need for supportive services. Funds are supplied specifically to meet these extra costs, which are called indirect costs or overhead. Presently, the overhead rate at the University of Hawaii is 48.5% of every salary dollar in each research grant. In 1978, indirect cost funds amounted to over three and one half million dollars. However, under current law, only ten percent of all income up to a maximum of \$200,000 annually from indirect overhead sources is deposited into the University of Hawaii research and training fund.

Due to the fact that all but a maximum of \$200,000 annually of these overhead funds are deposited into the general fund, this means that researchers at the University of Hawaii are critically short of secretarial, clerical and administrative help. It was also noted that repair and replacement of worn-out or defective equipment is another problem of major consequence. Shortfalls in these areas are hurting and hampering the research capabilities of the University of Hawaii. These facts were addressed specifically by those who testified before your Committee, including the Acting Chancellor of the University of Hawaii-Manoa, the Associated Students and Graduate Student Organization of the University of Hawaii-Manoa as well as numerous principal investigators in the research area and other interested individuals.

Your Committee has learned that while the University of Hawaii is considered one of the top fifty major research Universities, it is one of only four of those research Universities who fail to return overhead, except for a maximum of \$200,000, to their research Universities. Of the remaining top forty-six major research Universities, it was noted by your Committee that the percentage of overhead returned to these Universities ranged from forty to one hundred per cent, with the vast majority returning one-hundred per cent.

Testimony received by your Committee showed unanimous support for amending Section 304-8.1, Hawaii Revised Statutes, to increase support to the research and training enterprise of the University of Hawaii.

Your Committee amended the bill to provide for the retention and administration by the University of Hawaii, of all income on an annual basis from indirect overhead sources.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 411 as amended herein, and recommends that it pass First Reading by title, in the amended form attached hereto, be printed and referred to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 232 Higher Education on S.B. No. 1469

The purpose of this bill is to provide for an appropriation for the continuation of the continuing education for women program.

Your Committee heard testimony from the Dean of the College of Continuing Education and Community Service of the University of Hawaii, the Women's Legislative Coalition, the Commission on the Status of Women and various interested individuals, all of whom testified in favor of this bill citing the need for continuing education for women as a program of significance for women in various sectors of our community.

Your Committee is in agreement with this bill and it is our desire that this appropriation request move forward. However, your Committee is unclear from the testimony presented if the request, as outlined in this bill, is included in the current services budget as presented by the Department of Budget and Finance. Your Committee therefore recommends that the Committee on Ways and Means investigate this problem. It is also the desire of your Committee that in the future, funding requests be presented directly to your Committee on Higher Education.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1469 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. 233 Health on S.B. No. 32

The purpose of this bill is to broaden the definition of the term "treatment" to include domiciliary care in mental health care.

Your Committee has amended the language of the bill to reflect proper bill format.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 32, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 32, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Yee.

SCRep. 234 Health on S.B. No. 121

The purpose of this bill is to appropriate funds for the continuation of the protection and advocacy system for the developmentally disabled in Hawaii. The system was originally established by an executive order and includes recruiting and training of volunteers, educational and referral services, investigation of rights violations, and advocacy training for both the developmentally disabled person and his family.

Your Committee has amended the bill by appropriating \$270,841 for 1979-1981.

Your Committee is in accord with the intent and purpose of S.B. No. 121, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 121, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 235 Health on S.B. No. 401

The purpose of this bill is to change the requirement for procuring a new birth certificate following a sex change operation. At present, an affidavit by a physician who performed the operation is required. The bill would allow issuance of a birth certificate upon receipt of an affidavit by a physician who has examined the person after the operation. The sex designation on such a person's birth record can then be changed.

The Department of Health is involved in a suit by an individual who has been unable to obtain an affidavit from a physician in Hawaii that such an operation was performed and that the individual has female sex organs. The case is still pending, but the Department agreed to seek simplification in the existing law.

The Committee recognizes the legal and social need for such simplification.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 401 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. 236 Health on S.B. No. 451

The purpose of this bill is to require the Department of Health to issue a birth certificate to foreign born individuals who are adopted in Hawaii, by amending Section 339-17.7, Hawaii Revised Statutes.

The Department of Health believes that a new type of birth certificate as provided for in the bill should be created for such cases in order to avoid any possible doubt or confusion regarding that individual's place of birth and citizenship status.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 451 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. 237 Health on S.B. Nos. 470, 942, 964, 1379, 1445, 1511, 1690 and 1773

The purpose of these bills is to provide for capital improvement projects for health facilities throughout the State.

Your Committee on Health is in accord with the intent and purposes of S.B. Nos. 470, 942, 964, 1379, 1445, 1511, 1690 and 1773, 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 Senator Yee.

SCRep. 238 Health on S.B. Nos. 874, 876, 988, 1005, 1474 and 1777

The purpose of these bills is to appropriate moneys to support community-based health-related programs and projects throughout the State.

Your Committee on Health is in accord with the intent and purposes of S.B. Nos. 874, 876, 988, 1005, 1474 and 1777, 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 Senator Yee.

SCRep. 239 Health on S.B. No. 500

The purpose of this bill was to provide for family planning services to be made available to minors.

Your Committee made extensive amendments to the bill.

The purpose of the bill as amended is to amend Chapter 581 by redesignating the location of the office of children and youth from the office of the governor to the office of the ombudsman. This placement is in line with its advocate role as a referral agency for complaints of persons regarding services to children and youth or operations of state and county agencies affecting children and youth, and to investigate complaints. Your committee feels that

this office should be placed in the office of the ombudsman because of potential complaints against state agencies serving children and youth, and because of its advocate role to serve the children and youth by participating in the activities relating to them offered by other state and county agencies.

This bill as amended further amends the chapter to eliminate duplication of services by the office to those already existing within the department of budget and finance, department of health, department of social services and the department of labor and industrial relations.

Your Committee believes that this bill as amended would better serve the state by eliminating duplication of services and by concentrating the efforts of the office of children and youth to establishing statewide goals and objectives relating to children and youth in the state; evaluating the availability, adequacy, and accessibility of all services for children and youth and encouraging local community action in behalf of children through the local county committees on children and youth.

We hope that these goals will further aid the state by assisting the state health planning and development agency regarding children and youth in establishing guidelines and policies for the State Health Plan, for the integration and coordination of statewide health systems.

Similarly, we feel that this office will also assist other state and county departments in setting up statewide and county plans for their related services to the children and youth, by supplementing these departments' efforts.

Your Committee has received testimony and follow-up information regarding the duplication of requirements imposed on private agencies by the office of children and youth and other state departments regarding submission of these private agencies' proposed legislation and requested appropriations. We feel that it was not the intention of the office to so burden these private agencies, but that it was due to statutes mandating that these services be imposed by the office of children and youth.

We are also of the opinion that the intent of the Act was to advise and assist when requested by state and local agencies and not to supercede nor dictate their "tailored" plans for services offered within their respective areas. The bill retains home-rule by the counties as stipulated in Section 581-31.

Your Committee has amended the statutes to avoid duplication and burdensome activities mandated on the office of children and youth and already being performed by other state departments.

Furthermore, we have also found that these statutes enable the office to supercede and oversee those duties and responsibilities of the various line departments mandated to supervise legislation and budgetary requests relating to their services. The office of children and youth is not a line department nor a part of the department of budget and finance directly responsible for all budgetary requests in the administration. It is our contention that the powers delegated to the office of children and youth regarding review of all legislation and appropriations is in direct conflict with the duties and responsibilities of the line departments. The bill as amended reflects this concern.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 500, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 500, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Yee.

SCRep. 240 Health on S.B. No. 984

The purpose of this bill is to amend Act 243, Session Laws of Hawaii 1978, relating to the Hilo Hospital-Acute Care Center and related health care facilities at Hilo Hospital.

The bill expands the language of the use of the funds to read "For the design, construction, land acquisition and tenant relocation as necessary, to include a 150-bed acute care center, addition, renovation and remodeling of existing medical and ancillary facilities including helipad, parking area, and a 10-bed acute psychiatric facility."

Your Committee on Health is in accord with the intent and purpose of S.B. No. 984 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 Yee.

SCRep. 241 Health on S.B. No. 400

The purpose of this bill is to amend Section 338-14, Hawaii Revised Statutes, by increasing from \$1.50 to \$3.00 the fee for issuing a certified copy of a vital record (birth, death, marriage and divorce certificates) and from \$3.00 to \$5.00 the hourly fee for searching the files for records and which do not involve issuance of certified copies.

The department of health noted that the last increases in fees were set in 1964, and the amount of work needed for the services required in some instances is lengthy and time consuming. In addition, salaries and other current expenses have increased since then, and the present fees do not cover the costs for the services performed.

Your Committee finds that the increase in fees would defray costs generated by these services, and would not over-burden or have any consequential effect on the public when they request these services.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 400 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 Yee.

SCRep. 242 Health on S.B. No. 845

The purpose of this bill is to appropriate one percent of the annual tobacco tax revenues to finance scientific and medical research into causes, diagnosis and treatment of cancer, and to provide educational programs for cancer prevention. The bill further provides that all recipients of this fund shall submit an annual report to the legislature and the department of health stating how they used the funds, and their projected usage of future funds.

Your Committee realizes that 25% of all deaths occurring in Hawaii are caused by cancer. We find that this small amount of total tax revenues collected from tobacco sales would directly benefit the people of Hawaii in preventing unnecessary deaths and long-term illnesses. It is only proper that the money should come from tobacco sales, as tobacco is one of the major causes of cancer.

It is the Committee's intent to designate the Cancer Center of Hawaii as the recipient of the funds for cancer research. Since this center is one of nine permanent federal designates in the region, federal money is received each year. Upgraded research efforts and improved equipment may attract increased federal support.

The Hawaii Heart Association indicated that cardiovascular disease is the leading cause of death in Hawaii, with cigarette smoking being one of the major risk factors involved. Your Committee has amended the bill to provide that both cancer and cardiovascular disease education and research programs be funded by the annual tobacco tax revenues set aside by this bill.

Your Committee has amended the bill to provide the department of health expending powers for the funds provided by this bill.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 845, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 845, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 243 Health on S.B. No. 998

The purpose of this bill is to appropriate funds to subsidize the transportation, subsistence, and per diem expenses of advanced life support personnel from Hawaii, Maui, and Kauai counties, thereby allowing neighbor island ambulance personnel to attend the Mobile Intensive Care Technician (MICT) training on Oahu.

The MICT training program is conducted at the HMA-EMSP training facilities at Queen's Medical Center, and is composed of didactic lectures, demonstrations, and a four-month period of direct clinical internship experience on the City and County ambulance units on Oahu. The advantages of a central training core are standardization of training for advanced life support personnel, and maximizing use of clinical resources in one locality.

EMS testimony estimates the maximum cost for travel and subsistence/per diem to be

\$7,030 per trainee. Hawaii County estimates that 14 personnel need to be trained, in addition to three trainees from both Maui and Kauai.

It is the intent of the Committee to allocate funding for the twenty (20) trainees. The bill has been amended to read \$140,600.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 998, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 998, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 244 Health on S.B. Nos. 1023 and 1270

The purpose of these bills is to make appropriations to the Kona Hospital and Ka'u Hospital.

Your Committee amended the bills to insert the amounts to be appropriated.

Your Committee on Health is in accord with the intent and purposes of S.B. Nos. 1023, S.D. 1 and 1270, S.D. 1, respectively, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 245 Health on S.B. No. 1244

The purpose of this bill is to appropriate \$687,000 to the Hawaii Medical Association for its Emergency Medical Services Program.

This appropriation would further develop the program on Oahu and on the neighbor islands by providing technical assistance in all aspects of the development of a comprehensive statewide emergency medical services system. The HMA-EMS has completed eight years of experience in developing a modern, comprehensive emergency medical services system. This appropriation will enable continuity of program development.

Your Committee on Health is in accord with the intent and purpose of S.B. 1244 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 Yee.

SCRep. 246 Health on S.B. No. 1323

The purpose of this bill is to amend section 327C-1, Hawaii Revised Statutes, by removing the restrictive wording which requires a neurologist or a neurosurgeon to be called in for consultation by the attending physician to determine when a person is dead in cases where artificial means of support preclude making a determination that respiratory and circulatory functions have ceased. The bill designates the attending physician as the sole individual responsible to make the determination of death in such cases.

We recognize that the present statute is especially restrictive to the neighbor island hospitals where neurosurgeons and/or neurologists are not readily available, unless flown in from another island, or by traveling long distances, often resulting in a prolonged period before a person may be pronounced dead.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1323 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. 247 Health on S.B. No. 1536

The purpose of this bill is to augment prior appropriations for the planning, design and construction of medical rehabilitation facilities at the Rehabilitation Hospital of the Pacific, Oahu.

Your Committee has amended the bill to cite the proper prior appropriations. Your Committee also amended the bill to extend the life of these prior appropriations until June 30, 1983 to allow adequate implementation time.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1536, as amended herein, and recommends that it pass Second Reading in the form attached

hereto as S.B. No. 1536, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 248 Health on S.B. No. 1634

The purpose of this bill is to amend Chapter 328, part III, Hawaii Revised Statutes, by adding a new section defining the term "thawed food". The bill also deletes the exemption from the requirement of notification presently allowed to food products which are canned, pickled or preserved and to food products shipped outside of the State for sale which have been previously frozen and then thawed out. The bill exempts thawed foods processed by grinding, heating to alter the physical condition or by dehydrating, and requires labels to be of a size easily seen under customary conditions of purchase.

Your Committee recommends that the bill be amended in order to clarify the language relating to the term "frozen" and relating to the degree of thawing necessary to mandate labelling.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1634, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1634, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senator Yee.

SCRep. 249 Health on S.B. No. 1694

The purpose of this bill is to appropriate \$100,000 for capital improvement projects at Kalaupapa Settlement. These include a new water tank, restoration of Father Damien's grave, and the restoration of the Damien Church organ.

The Department of Health testified that the \$75,000 proposed in the bill will supplement a prior appropriation of \$50,000 from Act 244, SLH 1978, and expressed the need to be able to use these funds for repairs, upgrading and improving the entire water system at Kalaupapa, which is desperately needed.

The Department of Health further testified that in addition to needed repairs to the organ in the Memorial Chapel, repairs are needed for the ornamental iron fence around the Father Damien Memorial marker and they were concerned that money appropriated included these repairs.

Your Committee has adopted the Department of Health's recommendation to amend the purposes of the appropriation by the following:

"Improvements to Water System - (Funds from Section 2, item II-H-2 of Act 244, Session Laws of Hawaii 1978, may be used for the purposes of this project.)"

"Restoration of Father Damien Memorial Chapel - For furnishings and restoration of related premises including the gravesites and memorial marker."

The first amendment will give the Department more flexibility in expending the appropriation for the over-all water system including the water tank.

The second amendment would broaden the scope of the appropriation language and therefore allow the present appropriation to supplement a prior appropriation for an ornamental iron fence around the memorial marker in addition to repairing the organ in the chapel.

Your Committee has amended this bill by substituting the Department of Accounting and General Services as the expending agency.

Your Committee has adopted the recommendations of the Department of Health and has amended the bill accordingly.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1694, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1694, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 250 Health on S.B. No. 1695

The purpose of this bill is to amend Section 536-33, Hawaii Revised Statutes, by requiring

the Department of Health to properly maintain the Father Damien Memorial Chapel and the premises and graveyard at Kalawao, Molokai.

Department of Health testimony confirmed the department's willingness to accept responsibility for continuing maintenance and upkeep of the memorial which is in need of major repairs at the present time.

Your Committee on Health is in accord with the intent and purpose of S.B. 1695 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 Yee.

SCRep. 251 Health on S.B. No. 1700

The purpose of this bill is to address the State's responsibility to provide programs and services to the developmentally disabled and developmentally delayed children of the State.

It was brought to our attention that developmentally disabled and developmentally delayed children from birth to three years of age need more programs and services directed to developing their capabilities so that they can lead as complete and normal lives as possible. These programs and services are critical to the developmentally delayed children because it can facilitate their development and return them to a normal childhood at an earlier age.

Your Committee finds that it would be more appropriate to amend sections 333E-1 and 333E-2 to include developmentally delayed children within the responsibility of the State rather than to amend chapter 321 as provided in the bill. Your Committee has amended the bill accordingly.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1700, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1700, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 252 Health on S.B. No. 1771

The purpose of this bill is to amend the definition of the term "developmental disabilities"; to change the name of the agency responsible for coordinating services to developmentally disabled persons from the State Planning and Advisory Council on Developmental Disabilities to the State Planning Council; and to revise the makeup of the Council and requirements for membership on the council.

Your Committee heard testimony which indicated that Section 333E- of the bill dealing with funding procedures would result in the Council becoming more of an administrative body than is intended by the law, and your Committee therefore requested the Department of Health, Department of Education and the Council to develop an amendment to that section.

Your Committee has adopted the recommendation of the three parties and has amended the bill accordingly.

Your Committee on Health is in accord with the intent and purpose of S.B. 1771, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1771, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 253 Health on S.B. No. 1774

The purpose of this bill is to appropriate \$150,000 for a grant-in-aid to Children's Hospital in order to renovate the cytogenetic laboratory, and for programs related to prenatal genetic diagnostic services at the hospital.

According to the Department of Health testimony, funds for the diagnostic services are already in the Department of Health Administration Budget (HTH 801) for both the 1980 and 1981 fiscal years (\$44,000 and \$46,638, respectively). The Department, therefore, recommends support for only the capital improvements to the cytogenetic laboratory request.

Your Committee has adopted the recommendation of the Department of Health and has amended the bill by deleting the funds for programs related to prenatal genetic diagnostic services at Children's Hospital.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1774, as amended herein, and recommends that it pass Second Reading in the form hereto attached as S. B. No. 1774, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 254 (Majority) Public Utilities on S.B. Nos. 193, 1025 and 1079

The purposes of these bills relate to the deregulation of the motor carriers; to encouragement of rate competition; promoting economic efficiency among certain classes of motor carriers, and to ensure fair treatment of consumer concerns and interest.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. Nos. 193, 1025 and 1079, 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 except Senator Anderson.
Senators Yamasaki and Soares did not concur.

SCRep. 255 (Majority) Public Utilities on S.B. No. 218

The purpose of this bill is to set out a new chapter relating to wages and hours of employees on public works contracts. The bill would require public utilities who are party to a public works contract in excess of \$2,000 to pay the workers under the contract the prevailing wage. The prevailing wage is to be determined by the director of labor and industrial relations.

Your Committee finds that at present the State must pay prevailing wages on certain public works contracts under chapter 104, Hawaii Revised Statutes. Since public works contracts, whether contracted for by the State or a public utility, have the same purpose, your Committee concludes that the wages paid should be uniform.

Your Committee is aware that the bill has other legal and technical ramifications but believes that such points may be more appropriately considered in the next committee.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. No. 218 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 Anderson.
Senator Soares did not concur.

SCRep. 256 (Majority) Public Utilities on S.B. No. 519

The purpose of this bill is to penalize any public utility, its representative or agent who wilfully testifies on any material matter before the Public Utilities Commission or files a false report with the Public Utilities Commission by a fine of not less than \$100,000.

Although the Committee is aware that current Statutes provide for sanctions against any person committing perjury, it is felt that this bill will provide a needed deterrent to any oral or written information falsely provided to the Public Utilities Commission.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. No. 519 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.
Senator Soares did not concur.

SCRep. 257 Public Utilities on S.B. No. 1062

The purpose of this bill is to appropriate funds for staffing of the public utilities division of the department of regulatory agencies.

Your Committee amended the bill by appropriating the sum of \$50,000 for the purpose of this bill.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. No. 1062, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1062, S.D. 1, and referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 258 Public Utilities on S.B. No. 1070

The purpose of this bill is to appropriate funds for the development, implementation and maintenance of a computerized record management and information system for rate making purposes.

Your Committee amended the bill by appropriating the sum of \$100,000 for the purpose of this bill.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. No. 1070, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1070, S.D. 1, and referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 259 Public Utilities on S.B. No. 1071

The purpose of this bill is to appropriate funds for the staffing of the public utilities commission.

Your Committee amended the bill by appropriating the sum of \$50,000 for the purpose of this bill.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. No. 1071, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1071, S.D. 1, and referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 260 Public Utilities on S.B. No. 1613

The purpose of this bill is to prohibit the Public Utilities Commission (PUC) from approving the inclusion of the cost of legal expenses incurred by a public utility in public utility rates.

Your Committee has amended the bill by replacing the phrase "the legal defense fees" with "any unreasonable legal expenses". At present the PUC is allowed to include legal costs in the utility rates which is then passed on to the consumer. The U.S. Supreme Court has stated that reasonable legal fees may be included as part of a utility's expenses which goes toward justifying the rate paid by the consumer.

Your Committee intends that in the future the PUC be able to approve only those legal expenses which it finds are reasonable as part of the rate to be paid by consumers.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. No. 1613, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1613, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Anderson.

SCRep. 261 Public Utilities on S.B. No. 1753

The purpose of this bill is to impose upon motor carriers a civil penalty in the sum of one-sixteenth one one percent of the gross revenues from such motor carrier's business during the preceding calendar year for each month of non-compliance by a motor carrier in filing its financial reports with the Public Utilities Commission.

Your Committee finds that under present law, the Public Utilities Commission is permitted to assess a civil penalty of \$100 for the first day of a violation with \$50 being added for each additional day of the same violation pursuant to Section 271-27(g), Hawaii Revised Statutes. This provision causes the penalty to be substantial in nature and if fully assessed could cause most of the motor carriers to become bankrupt.

This bill amends the penalty provisions to provide for a civil penalty for failure to file financial reports based upon the gross revenues from the motor carriers business during the preceding calendar year.

The Committee is of the opinion that this bill will provide the necessary deterrent to non-compliance by motor carriers and be more equitable.

Your Committee on Public Utilities is in accord with the intent and purpose of S.B. No.

1753 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. 262 Ways and Means on S.B. No. 675

The purpose of this bill is to provide for the confidentiality of federal tax returns and information required to be filed with the State inheritance and estate tax return.

Testimony submitted by the Department of Taxation indicates that this bill is necessary to meet the requirements of the federal tax laws and to correct an inadvertent omission from Act 172, Session Laws of Hawaii 1978, providing for confidentiality of federal income tax returns.

Your Committee has amended the bill by renumbering section 2 as section 3 and by inserting a new section 2 indicating the effect of underscoring in the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 675, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 675, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 263 Ways and Means on S.B. No. 1316

The purpose of this bill is to clarify the authority of the comptroller, if satisfied with the adequacy of related internal controls and audit trails, to issue warrants for original warrant vouchers without accompanying original bills for medicaid payments and to approve the issuance of warrants in this manner in the comptroller's discretion.

Testimony received by the department of accounting and general services has recommended favorable action on this bill. The department noted that without this discretion, medical payments to providers would be made with no assurance from the comptroller's office as to the protection of the State's funds consistent with controls exercised on other state expenditures.

Your Committee has amended this bill by renumbering section 2 as section 3 and adding a new section 2 to set forth the effect of underscoring and bracketing in the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1316, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1316, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 264 (Majority) Health on S.B. No. 839

The purpose of this bill is to clearly provide that the land at Hale Mohalu, Pearl City, is to be used for, but not limited to, the care and treatment of Hansen's Disease patients.

This bill has been amended to add a new subsection to Section 326, Hawaii Revised Statutes, to accomplish its intent and purpose.

Presently, the residents of Hale Mohalu, Pearl City, literally live in dark uncertainty regarding their fate. The uncertainty is the result of the Department of Health's continuing "non-decision" of whether or not to permit the residents to remain at the facility. The darkness is the result of the Department's attempt to enforce this policy, most notably by severing the utility, water and other support services to the residents who nevertheless remain.

The Department's self-stated reason for this most unusual policy is alleged economic savings accrued by relocating the patients of Hale Mohalu, Pearl City, to Leahi Hospital. (Your Committee has investigated this "benefit" and now possesses documentary evidence to refute this allegation.) Your Committee finds the present situation totally unsatisfactory i.e., while the Department claims that Hale Mohalu is uninhabitable and a fire hazard (a condition not ameliorated by cutting off the water), it nevertheless condones its habitation by not removing the residents.

Also, even if the Department's contention of an economic savings were true, a comparison of financial costs to the human costs already extracted from these last remaining victims of Hansen's Disease, places this consideration of dollars and cents into its true perspective.

Leprosy has figured in some of the brightest and darkest moments of Hawaii's history. For too long a period, the afflicted were forced to endure, not only the physical sufferings of the disease, but the mental and spiritual anguish imposed by society. Then came those like Damien who taught Hawaii, and then the world, that the human spirit can truly overcome.

Hansen's Disease has now been controlled and there will be a day, soon, when none of its victims remain. It is the intent of your Committee that the last chapter on this affliction of our people, be an illuminating example of human dignity.

Your Committee is in accord with the intent and purpose of S.B. No. 839, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 839, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senators Saiki and Yee did not concur.

SCRep. 265 Health on S.B. No. 973

The purpose of this bill is to provide the funds necessary for the full and immediate implementation of the intent and purpose of Act 148, Session Laws of Hawaii 1978, which established the State Comprehensive Emergency Medical Services System. The Act required that the Department of Health become responsible for its development and administration throughout the State. It specifically required that the Department of Health either: operate such a system itself, or contract with counties or private agencies for the performance of the services.

Act 148 also mandates that beginning July 1, 1979, responsibility for emergency medical services in counties of more than 200,000 population, is reassigned to the State.

Although the Department of Health had nearly a year to prepare for the implementation of this Act, it has recently indicated that it may not be adequately inclined or able to carry out this clear statutory mandate, especially in the City and County of Honolulu.

The purpose of this bill is to reaffirm the State's legislatively mandated commitment that the Department of Health either operate such a system or contract with the counties or private agencies for those services necessary, throughout the entire State.

The funds appropriated by this bill, are specifically intended to assist the Department of Health to fulfill its statutory obligation in the City and County of Honolulu, to provide for the full and immediate implementation of the intent and purpose of Act 148, and your Committee specifically intends that these funds are to be in addition to the usual State grant-in-aid to the City and County of Honolulu.

Your Committee amended the bill by adding a section to clearly state its intent and purpose, and by inserting the necessary funds for implementation.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 973, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 973, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 266 Health on S.B. No. 1539

The purpose of this bill is to amend Section 663-1.5, Hawaii Revised Statutes, by including all licensed physicians under the "Good Samaritan Law" for emergency care rendered without remuneration or any expectation of remuneration, except for gross negligence or wanton acts or omissions. This Act also exempts from liability medical organizations in emergency situations from civil liability except for gross negligence or wanton acts or omissions.

To accomplish this purpose your Committee has amended the bill to add the phrase "in emergency situations" at page 3, line 9, of the original bill.

It is the Committee's intent that in extending the "Good Samaritan" law to include physicians, and medical organizations that the fear among physicians and medical organizations regarding malpractice claims and concern over adequate malpractice coverage can be lessened.

Your Committee further amends Section 2, subsection (b), of the bill to include personnel schooled in basic life support, and personnel schooled in advanced life support under the term "rescue team". Basic life support and advanced life support are two separate and

distinct categories of training, both of which require training in cardiopulmonary resuscitation.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1539, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1539, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 267 Health on S.B. No. 1778

The purpose of this bill is to amend section 457-7(2), Hawaii Revised Statutes, to prevent denial of a license to practice as a registered nurse to those persons who have met the other required qualifications but who do not hold a baccalaureate degree.

There exists a shortage of nurses in rural areas of the State and because of their locale, these areas have been unable to fill their nursing positions. Your Committee recognizes that to become a registered nurse does not necessarily require a baccalaureate degree and although it is the present practice of the State to issue licenses to persons meeting the educational requirement without a baccalaureate degree. Your Committee finds that this bill is needed to insure that this practice continues for the benefit of the State and its rural areas, where shortages of nurses exist.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1778 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 268 (Majority) Health on S.B. No. 221

The purpose of this bill is to remove the statutory classification of marijuana as a "detrimental drug".

Your Committee believes that the public has come to accept the increased use of marijuana as indicated by the laws enacted by other states and the federal government lessening the offense and the punishment of the possession and sale of marijuana. Furthermore, your Committee believes that continued insistence on stiff penalties and high fines will not solve the problem of crime related to the black market which most users are faced with in order to obtain marijuana. After consideration of the consequences of decriminalization, your Committee has concluded that the related criminal activity caused by making the sale and possession of marijuana illegal, will be more detrimental to the community in the long run than just the sale and use of marijuana itself.

Your Committee points out that this bill does not effect present statutes regarding "marijuana concentrates".

Your Committee on Health is in accord with the intent and purpose of S.B. No. 221 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.
Senators Takitani, Saiki and Yee did not concur.

SCRep. 269 (Majority) Health on S.B. No. 309

The purpose of this bill is to enable pharmacists to substitute brand name drugs with their generic equivalents through a formulary of generic equivalents. Your Committee made numerous amendments to the bill. A summary of the bill as amended is as follows:

Substitution of generically equivalent drugs distributed by businesses doing business in the United States is required by the pharmacist unless the consumer or the prescriber states otherwise. Prescription forms shall require the prescriber to sign whether he approves or disapproves substitution. If the pharmacist is allowed to substitute, he must inform the consumer of the substitution and the difference in price of both the brand name and the generic equivalent. If the prescriber allows substitution, he must also inform the patient that the pharmacist may substitute. This bill has added the responsibility to the department of health to inform the public on the availability of generic substitution through educational programs.

In establishing a drug formulary, both generic equivalents and generic inequivalents of the most commonly used drugs in Hawaii shall be included and a board shall be established, called the generic substitution board. This board shall consist of six members, composed

of two physicians, two pharmacists and two members from the department of health. The members shall be appointed by the governor with staggered terms and with the advice and consent of the legislature. The board shall establish and update the list through available information and studies on all drug products. The formulary shall be adopted six months after the Act is in effect. In addition, a sign shall be posted in every pharmacy informing the consumer of the availability of generic substitution and that they should consult their physician.

An audit by the Legislative Auditor is called for after six months of the effective date to determine the cost effectiveness resulting from generic substitution as required in this bill.

This bill further amends the Hawaii Revised Statutes by establishing a price list of all drugs to be publicly displayed by each pharmacy and which may be updated to meet the prevailing price by the respective pharmacists. The board of pharmacy shall be responsible for preparing and distributing this list. This section does not preclude price changes necessitated by economic reasons imposed by the pharmacist.

Liability of the pharmacist remains the same as it would be for filling non-substitution drugs.

In addition, Sec. 328-6 has been amended to exclude generic drug substitution as a prohibited act.

Your Committee finds that in keeping with our attempt to contain medical costs in Hawaii, this bill will address the spiraling costs for prescriptions. This bill will further provide aid to those who are unemployed due to illnesses and the elderly who are dependent upon medicine to insure a more normal life.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 309 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 309, S.D. 1 and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.
Senator Yee did not concur.

SCRep. 270 (Majority) Health on S.B. No. 446

The purpose of this bill is to validate consent by a minor to provision of medical care and services relating to pregnancy and family planning. At present minors may consent to medical care and services for venereal disease. The bill also gives the treating physician the discretion of having the spouse or parents of minor patients informed of the provision of medical care and services or information relating to such care and services after consulting with the minor. If the minor is not pregnant or is not afflicted with venereal disease, no information may be disclosed without the consent of the minor.

In support of this bill, the Hawaii Medical Association cited a U.S. Supreme Court decision giving the minor the right to prevent pregnancy without parental consent. The American Civil Liberties Union also supported the idea of extending the constitutional right of privacy to minors. The Hawaii Medical Association further testified that it believed Hawaii Statutory policy should promote the right to privacy and the right to make responsible decisions regarding reproduction by the sexually active minor.

Your Committee intends that the physician involved with the delivery of services to the minor should attempt to involve both the minor and the entire family as much as possible.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 446 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.
Senator Campbell did not concur.

SCRep. 271 (Joint) Health and Education on S.B. No. 567

The purpose of this bill is to clarify the responsibilities of the Department of Health and Department of Education with respect to exceptional children. The bill provides that responsibility for instruction, special facilities, and special services for education, therapy, and training for exceptional children lies with the Department of Health for the zero to five age group, while the Department of Education is responsible for the six to twenty age group.

The Hawaii Medical Association testimony encouraged the two departments to administratively

"work together" in supporting the needs of the exceptional child, citing that the job cannot be relegated to only one institution or agency, public or private.

The Developmental Disabilities Council, the Department of Health, Commission on the Handicapped, and the Office of Children and Youth stressed the need for a coordinated effort to develop programs between the agencies, and for the agencies to clarify administrative ambiguities which now exist.

Your Committee recognizes the special needs of handicapped children, and encourages the coordination of services between state departments serving the interests of the public. It is the intent of the Committee that particular emphasis be placed on providing necessary services for handicapped children.

Your Committee on Health and Education are in accord with the intent and purpose of S.B. No. 567 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senator Anderson.

SCRep. 272 Housing and Hawaiian Homes on S.B. No. 146

The purpose of this bill is to provide statutory authority to enable the Hawaii housing authority to issue revenue bonds for mortgage purchase and loan-to-lenders programs similar to programs existing in other states.

Your Committee has amended the purpose of the bill to add one more program, a direct loan program, to the other two programs for which revenue bonds can be issued. This program will allow financial institutions to make new loans in the name of the authority for the authority's portfolio. Your Committee has added this program to provide the authority with the flexibility to utilize the specific program which offers the best effective interest rate to its target group in the competitive environment for money market offerings by municipal housing agencies.

Your Committee has added many provisions which more clearly delineate the specific loan program operations and restrictions.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 146, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 146, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 273 Housing and Hawaiian Homes on S.B. No. 149

The purpose of this bill is to decrease long term housing costs and increase the quality of housing by financing research projects incorporating innovative design. The sum of \$250,000 is appropriated for these research projects.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. 149 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 Housing and Hawaiian Homes on S.B. No. 157

The purpose of this bill is to decrease long-term housing costs and increase the quality of housing by providing tax credits to developers who utilize energy saving and cost saving devices and materials.

Your Committee has amended the purpose of this bill to provide general excise tax exemptions to persons and entities who contribute toward the development, construction, or occupancy of government assisted housing. Additionally, exemptions from real property tax have been added. These amendments are desirable, not only to decrease the cost of deliverable government housing, but to stimulate private sector participation in government assisted housing development. Private sector participation is an integral element in Federal and State housing programs; this is best exemplified in the processes and requirements of the Federal Section 8 housing assistance program which requires private sector housing development for government housing targets in specific areas.

These government assistance programs, however, are in some instances insufficient to foster wide participation and acceptance by the private sector due to current economic and housing market conditions. Additionally, private sector development of rental housing is almost non-existent due to high capital and production costs, and for this reason, government assistance is highly desirable.

To alleviate private sector non-participation, housing development incentives are necessary; we must attract competent development entities to participate in existing government housing assistance programs. The incentives contained in this bill will reduce the price consumers pay for such housing via current limitations and restrictions on profit-making in government assisted housing.

Your Committee has made the following amendments to the bill which:

(1) Expand the general excise tax exemption (currently enjoyed only by construction contractors) to include all participants who contribute toward the planning, design, financing, construction, sale, lease, or rental of government assisted housing;

(2) Expand the applicability of qualifying housing (from only multiunit property) to single family, multiple-unit, or mixed use residential property;

(3) Expand the program applicability (from three outdated specifically cited Federal programs) to all State and Federal government assistance programs, and to obviate continual statutory amendment in accommodating future federal public law and federal rule amendments;

(4) Provide for the verification of claims by the Hawaii Housing Authority (HHA) (such claims will be reviewed by the HHA to verify that eligible entities applying for such exemptions are receiving government assistance for the development, construction, financing sale, lease or rental of housing projects; it is not the intent of your Committee to duplicate or infringe upon the statutory powers and duties of the Department of Taxation, but to assist that department's operations with the Authority's expertise);

(5) Amend real property tax exemption statutes for nonprofit and limited distribution mortgagors by expanding the Federal program applicability for the reasons stated in item (3) above; and

(6) Amend the existing general excise tax exemption authority provided to the Hawaii Housing Authority for clarity and consistency with the amendments of Section 237-29, Hawaii Revised Statutes.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 157, as amended herein and recommends that it pass First Reading in the form attached hereto as S.B. No. 157, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 275 Housing and Hawaiian Homes on S.B. No. 158

The purpose of this bill is to facilitate the administrative and technical aspects of the state horizontal property regimes law.

Your Committee received testimony from various persons on this short-form bill, and has incorporated various suggestions for amendments into this bill. Your Committee has thus amended the purpose of the bill to a greater extent than the original purpose as set forth in the short-form bill.

Your Committee has amended various definitions contained in section 514A-3:

1. "Apartment owner" has been amended to be defined as the person owning an apartment as provided by lease recorded with the Bureau of Conveyances or registered with the land court. In testimony presented by the Hawaii Council of Associations of Apartment Owners, which proposed replacement of the present language which defines "apartment owner" as provided by lease filed with the association's board of directors, it was stated:

"...the question of the ownership of the apartment depends on administrative action by others—first, by the landowner to deliver the lease to the Board of Directors and, secondly, on the Board of Directors to retain the lease in their file. This appears to be a hazardous way of determining whether an individual, in fact, owns an apartment. It is considered that the proposed amendment will clarify this situation. In the absence of such a revision, it is theoretically possible for a landowner to insist that he is still the owner of the apartment

and entitled to voting rights and other privileges of ownership."

2. "Common elements" has been amended to clearly spell out that only those facilities that are on the property of a condominium project may be designated as a common element in the declaration.

3. "Common expenses" has been amended to assure that only expenses for common elements be included in maintenance fee expenditures.

Your Committee has also amended the bill by adding an amendment to section 514A-90(a) which provides that a lien created for unpaid common expenses assessed during the six months immediately preceding institution of an action shall have a higher priority than all sums, including expenses on attorney's fees, unpaid on recorded mortgages. Your Committee received favorable testimony on this amendment from the Waikiki Residents Association, the Hawaii Council of Associations of Apartment Owners, and Chaney, Inc. The Real Estate Commission presented testimony stating "no objection" to this concept. The Hawaii Council of Associations of Apartment Owners stated that this provision "is derived from the draft Uniform Condominium Act as recommended by the National Conference of Commissioners on Uniform State Laws. This particular provision has already been adopted in several states."

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 158, as amended herein, and recommends that it pass First Reading by title, in the amended form attached hereto as S.B. No. 158, S.D. 1, be printed and be referred to the Committee on Consumer Protection and Commerce for further consideration.

Signed by all members of the Committee.

SCRep. 276 Housing and Hawaiian Homes on S.B. No. 270

The purpose of this bill is to allow leasehold homeowners to deduct lease rent payments made from their gross income for state tax purposes.

Conceptually, leasing is a form of long-term financing similar to a mortgage, and lease rent payments are similar to interest payments. Because lease rent payments are a non-deductible expense for tax purposes, unlike interest expense, leasehold homeowners do not enjoy tax deduction for land costs incurred.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 270 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 Housing and Hawaiian Homes on S.B. No. 494

The purpose of this bill is to require a landlord to provide at least ninety days notice to a month-to-month tenant before anticipated termination where the landlord contemplates conversion to condominium under chapter 514A.

Your Committee received testimony from the Hawaii Association of Realtors, the Pinao Tenants Association, and the Office of Consumer Protection in favor of the bill.

Your Committee has amended the bill for style and clarity.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 494, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 494, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 278 Housing and Hawaiian Homes on S.B. No. 688

The purpose of this bill is to provide an appropriation of \$250,000 for on- and off-site improvements at the housing project.

Your Committee finds that the improvements are a necessity to enhance the viability of the project and provide public roadways which will benefit the future tenants and surrounding neighborhood.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose

of S.B. No. 688 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. 279 Housing and Hawaiian Homes on S.B. No. 1036

The purpose of this bill is to provide \$100,000 to Alu Like, Inc., as State matching funds with federal financial assistance for Native American Programs to meet the needs of native Hawaiians to attain economic and social self-sufficiency under the reauthorized federal Native American Programs Act of 1978.

Your Committee received testimony in favor of the bill from the Department of Hawaiian Home Lands and Alu Like, Inc.

Your Committee is in accord with the intent and purpose of S.B. No. 1036 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. 280 Housing and Hawaiian Homes on S.B. No. 1236

The purpose of this bill is to allow a one-time exclusion of the gain from the sale of a principal evidence by persons 55 years and older. The bill conforms State law with the recently enacted Internal Revenue Code amendment of similar scope.

Your Committee received testimony in favor of the concept.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 1236 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 Housing and Hawaiian Homes on S.B. No. 1451

The purpose of this bill is to delete the six-year maximum limit for contractual positions under chapter 356.

Your Committee received testimony from the Hawaii Housing Authority (HHA) stating that the "6-year limit appears to be arbitrary as the HHA has found no justification for restricting employment to 6 years as opposed to eight or ten years." The restrictions may be detrimental to the HHA's program operations.

Your Committee has amended the bill authorizing two-year contracts with the option given to HHA to renew such contracts.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 1451, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1451, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 282 Housing and Hawaiian Homes on S.B. No. 1457

The purpose of this bill is to make an appropriation to the Hawaiian loan guarantee fund to support the guarantee of repayment of loans made by government agencies or private institutions to those holding leases or licenses issued under section 207 of the Hawaiian Homes Commission Act, 1920, as amended.

Act 130, section 1, Session Laws of Hawaii 1973, established the Hawaiian loan guarantee fund under section 213 of the Hawaiian Homes Commission Act of 1920, as amended.

Act 130, section 2, Session Laws of Hawaii 1973, appropriated \$500,000 from general revenues to the Hawaiian loan guarantee fund for the purposes of guaranteeing loans of Hawaiian homes lessees. Section 2 does not contain a statutory provision which authorizes the lapsing of appropriation.

However, Article VII, section 11, of the recently amended Hawaii State Constitution provides for lapsing of appropriations.

In light of the amended Hawaii State Constitution, it appears that the \$500,000 appropriated under Act 130, Session Laws of Hawaii 1973, will lapse on June 30, 1980.

As of this date, the department of Hawaiian home lands has not allotted any portion of the \$500,000, for none of the affected loans have gone into default.

Your Committee amended the bill as follows:

- (1) specified the sum appropriated to be \$500,000;
- (2) amended the expending agency from the department of accounting and general services to the department of Hawaiian home lands;
- (3) added a lapsing provision to conform to Article VII, section 11, of the amended Hawaii State Constitution; and
- (4) amended the effective date to July 1, 1980.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 1457, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1457, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 283 Housing and Hawaiian Homes on S.B. No. 1459

The purpose of this bill is to allow the counties to issue special purpose revenue bonds and notes to implement a permanent mortgage financing program for housing for persons and families of low and moderate income.

Your Committee finds that the program will provide essential mortgage financing for low and moderate income households since existing public and private mortgage financing programs at the County and State levels will not provide sufficient resources in the future to meet the demands for funds at affordable interest rates to assist these persons.

Your Committee has made numerous technical amendments to the bill as recommended by Mr. Sam Hellman, bond counsel for the State of Hawaii and the counties, without affecting the substance of the bill.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 1459, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1459, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 284 Housing and Hawaiian Homes on S.B. No. 1480

The purpose of this bill is to provide \$95,000 to the Hawaii Housing Authority for the acquisition (by purchase or lease) of a minimum sized residential lot, and for the planning, research, design, and construction of an experimental prototype cost saving home which can satisfy the needs of the gap group (moderate income) housing market. This prototype house will include alternatives applicable to the varying needs of the counties and will attempt to incorporate new cost saving techniques, materials, and code variances being introduced or proposed by the housing industry.

Your Committee received testimony from the Hawaii Housing Authority, the Advisory Council of Housing and Construction Industry, and the Home Builders Association of Hawaii in favor of the bill.

Your Committee has amended the bill to correct a typographical error.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 1480, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1480, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 285 Housing and Hawaiian Homes on S.B. No. 1482

The Purpose of this bill is to provide \$1,000,000 to the Hawaii Housing Authority for

the renovation and rehabilitation housing program established under Act 178, SLH 1976, as amended by Act 210, SLH 1977.

Your Committee is in accord with the intent and purpose of S.B. No. 1482 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. 286 Housing and Hawaiian Homes on S.B. No. 1546

The purpose of this bill is to amend section 202(a), Hawaiian Homes Commission Act, 1920, as amended. The amendment would expand the commission from its present eight members to nine members and by providing that one member represent west Hawaii and another member represent east Hawaii.

All public testimonies favored the expansion and the department of Hawaiian home lands gave its complete support.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 1546 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. 287 Housing and Hawaiian Homes on S.B. No. 1702

The purpose of this bill is to facilitate service of process in actions to quiet title under Chapter 669, Hawaii Revised Statutes, where a condominium is joined as an adjoining property owner defendant.

Your Committee understands the problems in quiet title actions where a condominium is involved and is therefore in accord with the intent of this bill. However, it respectfully requests the Senate Judiciary Committee to more thoroughly consider the legal and technical aspects and ramifications of this bill since the bill would cause responsibility for finding out who owns and occupies or has an interest in every condominium project to shift from the plaintiff in the quiet title action to the homeowners association.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 1702 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 288 Housing and Hawaiian Homes on S.B. No. 1744

The purpose of this bill is to authorize the counties to provide for cluster developments in the agricultural and rural districts in accordance with uniform statewide standards.

Your Committee received testimony from the Department of Planning and Economic Development, and the Department of Agriculture in favor of the intent of this bill.

Your Committee finds that passage of the bill may eventually lower the cost of housing.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 1744 and recommends that it pass Second Reading and be referred to the Committee on Economic Development.

Signed by all members of the Committee.

SCRep. 289 Housing and Hawaiian Homes on S.B. No. 1757

The purpose of this bill is to amend section 247-2, Hawaii Revised Statutes, to apply the basis and rate of tax only to a lease or sublease whose full unexpired term is of five years or more. Under present law, the provisions apply to leases or subleases with unexpired terms of ten years or more.

Your Committee received testimony from Mr. George Freitas, Director, State Department of Taxation, which indicated the need for the amendment to better furnish essential market data for the assessment of real properties.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose

of S.B. No. 1757 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. 290 Economic Development on S.B. No. 1222

The purpose of this bill is to fund a Leeward Islands commercial fishing survey to determine the commercial potential of the Leeward fishery and to obtain baseline data necessary to effectively manage the fishery resources available in the area.

The Hawaiian fishing fleet, for many years, has viewed the Leeward Islands as a vast area of underutilized resources. Recently, the Honolulu Laboratory of the U.S. National Marine Fisheries Services has conducted descriptive surveys of the Leeward Islands and has identified the locations of various fishery resources. In addition, several local vessels have made fishing trips to this area. Their reported catches of lobster, Kona crab, shrimp, and bottomfish have indicated a high potential for developing the Leeward Islands fisheries into viable commercial ventures. To judiciously develop the fishery to its optimum potential and to manage the fishery to maintain the optimum sustainable yield, it is essential that a systematic assessment of the resources available in the area be performed. This bill provides funds for such an assessment.

Your Committee has amended the bill by adjusting the amount of the appropriation from \$163,800 to \$153,800 to reflect the spending limit established in the Executive Budget. Your Committee has further amended the bill by adding a lapsing clause to section 2 and by making other minor technical changes.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1222, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1222, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hara, Yamasaki and Saiki.

SCRep. 291 Economic Development on S.B. No. 1223

The purpose of this bill is to provide funds for communications and periodic on-site inspection by a state representative of the fisheries base pilot project at Midway Island. The representative will insure adherence to the terms of the Facility Permit Use between the State of Hawaii and the Navy, which granted the state approval to engage in a one-year experimental fisheries project at Midway Island.

It is believed that the main stock of North Pacific albacore tuna, the most valuable of the canned-tuna species, migrate back and forth across the Pacific, passing close to Midway Island, a U.S. naval facility at the northern end of the Hawaiian Archipelago. Until recently, however, it has not been economically viable for Hawaii-based fishing vessels off-loading in Honolulu to take advantage of this rich Midway albacore fishery. Recognizing the tremendous potential of the Midway area, the State of Hawaii applied for and received approval from the U.S. Navy to engage in a one-year experimental fisheries project at Midway. While the Bumble Bee Seafood Co. is operating the 1979 pilot project for the State, the State is ultimately responsible to the Navy for conforming to the terms of the Use Permit. The funds appropriated by this bill will enable a representative of the department of land and natural resources to monitor the project, assure adherence to the Facility Use Permit, and enhance the possibility of establishing a longer-term or even permanent future Midway fishery base operation.

Your Committee has amended the bill by inserting a lapsing clause in section 2 of the bill and by making other minor language changes.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1223, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1223, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hara, Yamasaki and Saiki.

SCRep. 292 Economic Development on S.B. No. 1436

The purpose of this bill is to appropriate \$46,000 to supplement the \$35,000 authorized by Act 226, Session Laws of Hawaii 1976, for the installation of a water line to Mokauea Island.

Testimony by John Kelly of the Mokauea Fishermen's Association indicated that substantial public and private support has been received for the rehabilitation of Mokauea Island. The Army and National Guard are participating in an effort to excavate a 2-acre fishpond, and private firms are contributing concrete, lumber, telephone poles, tools, labor, and expertise to aid the rehabilitation effort. In view of this concerted effort by all segments of the community to support the improvement of Mokauea Island, Mr. Kelly emphasized in his testimony that a water line is urgently needed to provide water for construction, fire safety, and health requirements.

Your Committee has amended the bill by changing the funding source from general revenues to general obligation bond fund.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1436, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1436, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hara, Yamasaki and Saiki.

SCRep. 293 Intergovernmental Relations on S.B. No. 164

The purpose of this bill is to ensure that county governments are adequately involved in implementing federal legislation at the local level.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 164, 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. 294 Intergovernmental Relations on S.B. Nos. 471, 812, 817 and 829

The purpose of these bills is to provide funds for improvements to water systems in the above-mentioned areas.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. Nos. 471, 812, 817 and 829 and recommends that these bills pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 295 Intergovernmental Relations on S.B. No. 402

The purpose of this bill is to appropriate \$1,517,267.07 out of the general revenues of the State, not otherwise appropriated, for purposes expressed in the title of the bill.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 402 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. 296 Intergovernmental Relations on S.B. No. 403

The purpose of this bill is to provide for a grant-in-aid to the City and County of Honolulu to provide for the remaining land acquisition and construction to complete the widening and improvement of Kuhio Avenue, extending from Kaiulani Avenue to Kapahulu Avenue.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 403 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. 297 Intergovernmental Relations on S.B. No. 407

The purpose of this bill is to provide sufficient funds so that the satellite city halls may also dispense appropriate services offered by the State government.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 407 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. 298 Intergovernmental Relations on S.B. No. 525

The purpose of this bill is to appropriate funds out of the general revenues of the State of Hawaii for water development projects in Hawaii County.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 525 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. 299 Intergovernmental Relations on S.B. No. 835

The purpose of this bill is to amend Sec. 49-4, HRS, by deleting the statutory requirement that the maximum amount of interest on revenue bonds not exceed six percent.

The committee has received testimony indicating that removal of the six percent ceiling on interest paid on revenue bonds will give jurisdictions a better chance of selling their bonds.

Testimony from the Director of Finance of the City and County of Honolulu indicated that while the proposed bill is a housekeeping measure, it is quite important as current economic conditions as well as trends on long-term interest rates suggest that the existing interest rate ceiling is unrealistic and may effectively constrain bidders should the need to sell revenue bonds arise.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 835 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. 300 Intergovernmental Relations on S.B. No. 581

The purpose of this bill is to require that all projects whether new or existing comply with all current county building, zoning and subdivision codes.

Your Committee has reviewed testimony indicating that conversions of pre-existing property from rental status to condominium status are of a mechanical nature under the present law in that developers are free to convert and resell substandard properties with no restrictions on quality or code compliance, as long as the market will bear it.

The Committee also heard testimony in opposition to the bill stating that it is pro development and a large stride backward against the long-term struggle against high use developments and effective land use control. Testimony reviewed also indicated that passage of the bill will preclude or severely limit conversions of existing structures since in most cases existing structures do not conform to all current ordinances and these ordinances change constantly.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 581 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 301 Intergovernmental Relations on S.B. No. 586

The purpose of this bill is to restore and provide for the issuance and sale of \$10,000,000 principal amount of general obligation bonds originally authorized by the Council of the City and County of Honolulu.

The Committee received testimony from the Department of the Budget, City and County of Honolulu, stating that the \$10,000,000 authorization was irrevocably lost when on December 15, 1975, the City and County retired \$10,000,000 principal amount of General Obligation Bond Anticipation Notes, Series 1975, dated October 1, 1975, maturing December 15, 1975, from the General Fund out of real property tax proceeds rather than from the proceeds of the sale of general obligation bonds. Section 47-2.2, Hawaii Revised Statutes, provides that to the extent that the principal of outstanding general obligation bond anticipation notes is paid

from monies other than the proceeds from the sale of general obligation bonds, the aggregate of bonds authorized and unissued shall be reduced by the amount of notes paid in such manner.

As a consequence of the City's action, it was necessary to reduce the amount of bonds authorized by \$10,000 and classify this amount as "Other Receivables" in the same Bond Fund, pending adjustment by reinstatement.

In fiscal 1977, the City's bond counsel, Wood and Dawson, advised the City that the \$10,000,000 reduction in bond authorization was final and could not be reinstated except by remedial legislation by the State Legislature.

The Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 586 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. 302 Intergovernmental Relations on S.B. No. 592

The purpose of this bill is to establish controls to regulate burglary and holdup alarm systems.

Representatives from the City and County of Honolulu Police Department testified that the police are responding with increasing frequency to false alarms and that the costs in police manpower, time and wages to respond to such an excessive number of false alarms is an unacceptable and inefficient use of police services and public funds.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 592 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 303 (Majority) Intergovernmental Relations on S.B. No. 632

The purpose of this bill is to restrict adult theaters, bookstores, and cabarets from locating within 1,000 feet of each other or within 1,000 feet of any area zoned residential.

The Committee heard testimony from representatives of the Honolulu Police Department indicating that the 1,000 feet zoning restriction will help to act as a deterrent against the creation of concentrated pornographic districts which were unsuccessfully tried on the mainland.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 632, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 304 Intergovernmental Relations on S.B. No. 704

The purpose of this bill is to amend Chapter 237, Hawaii Revised Statutes, relating to general excise taxes, by providing an exemption from such tax for certain government service companies.

Mr. Robert Way, Director of Transportation Services for the City and County of Honolulu, submitted testimony in favor of the bill. He states that the City's bus system is operated by MTL, Inc., a private non-profit management company. The revenues from the operation of the system are City revenues, and all equipment belong to the City. The City reimburses MTL, Inc. for its operating costs. The Department of Taxation has ruled that such reimbursement is subject to the general excise tax law. Currently, MTL, Inc. pay \$70,000 per month in general excise taxes on these monies.

Your Committee believes that this bill will provide relief to the City bus system and MTL, Inc., and that such relief is both just and reasonable.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 704, 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. 305 Intergovernmental Relations on S.B. No. 705

The purpose of this bill provides that 50% of all traffic fines and forfeitures collected in the City and County of Honolulu be provided to the City.

Currently, all such revenues are collected by the District Courts and deposited in the State's general fund. Mr. James K. Sakai, Chief Budget Officer of the City testified that it is the City's position that at least 50% of the revenues should go to the City. The City issues the traffic citations and bears the expenses for installing and maintaining parking meters. The City provides the personnel for the operation of the system, such as policemen, meter maids, and prosecutors. The City is burdened with considerable expenses in excess of \$1.5 million annually, and yet receives no compensation from such traffic fines and forfeitures.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 705, 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 Intergovernmental Relations on S.B. No. 710

The purpose of this bill is to remove the requirements in the law that an appeal of a decision of the county liquor commission must be tried de novo in the circuit court. Such a requirement places an unnecessary burden upon the courts.

Mr. Robert Teruya, deputy corporation counsel for City and County of Honolulu, testified in favor of the bill.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 710, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 307 Intergovernmental Relations on S.B. No. 1011

The purpose of this bill is to provide funds for land acquisition, plans and construction including pumps, pipelines and storage facilities for the Kehena Ditch water source.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 1011 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 Yamasaki.

SCRep. 308 Intergovernmental Relations on S.B. No. 765

The purpose of this bill is to provide funds for damage caused by flooding on the Island of Hawaii.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 765 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. 309 Intergovernmental Relations on S.B. No. 1313

The purpose of this bill is to amend Section 52-16, Hawaii Revised Statutes, by releasing the police from the mandatory duty to provide escort for funerals.

The existing statute requires on-duty officers to escort all funerals upon request free of charge. This mandatory requirement has imposed a large drain on the proper utilization of police officers throughout the State. In 1978 alone, county police departments provided escorts for 1,368 funerals. This involved the use of 3,254 officers and consumed a total of 3,267 man-hours of on-duty time.

Major Bernard Suganuma of the Honolulu Police Department and Mr. Stephen Magnani, Chairperson of the Legislative Committee of SHOPO, both testified in favor of this bill.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of

S.B. No. 1313, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 310 Intergovernmental Relations on S.B. No. 1466

The purpose of this bill is to expand the scope of the county committees on the status of women by amending section 367-7, Hawaii Revised Statutes. The bill will provide the county mayors and councils the opportunity to assign duties and responsibilities to and to seek advice from such committees. Under the present statute, the committee is not required to work with the mayors and county councils.

Your Committee heard testimony from Ms. Diane D. Cox of the State Commission on the Status of Women, Lieutenant Governor Jean King, Mary Ellen Swanton of the Hawaii Federation of Business and Professional Women's Clubs, and Ms. Ruth Lieban, Chairperson of the Honolulu County Committee on the Status of Women. All of the witnesses strongly support the bill as amended herein.

Your Committee has amended the bill in accordance with the request of the Attorney General's Office relating to certain constitutional questions.

Your Committee on Inter-Governmental Relations is in accord with the intent and purpose of S.B. No. 1466, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1466, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 311 Judiciary on S.B. No. 18

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article VII, Section 4 to which such conformance is addressed by this bill reads as follows:

"No tax shall be levied or appropriation of public money or property made, nor shall the public credit be used, directly or indirectly, except for a public purpose. No grant shall be made in violation of Section 4 of Article I of this constitution. No grant of public money or property shall be made except pursuant to standards provided by law."

S.B. No. 18 was substantially amended by your committee to provide a detailed procedure for the review of grants and subsidies of public money to private organizations. Under "general conditions of assistance", your committee felt it extremely important to mandate that no grant of public money shall be made except for a public purpose. The person requesting funds must also comply with laws prohibiting discrimination, and all applicable licensing requirements.

A request for funds may be submitted on forms provided by the director of finance to the state agency having jurisdiction over the program area to which the activity to be assisted relates. In the alternative, the request may be submitted to the legislature in bill form no later than the tenth legislative day. These requests will be reviewed by the appropriate agencies, and a statement submitted to the legislature setting forth criteria from which the legislature can use to determine if a public purpose is being served.

If the request was submitted to the agency directly, that agency's statement of findings required by section -3 shall be submitted attached to an appropriate bill to the legislature no later than the tenth legislative day, or may be a part of the agency's program and financial plan and budget submission to the director of finance. If the request was submitted directly to the legislature, the servicing agency has until the thirtieth legislative day to submit its statement.

Section -7 mandates that all appropriations for assistance be monitored and evaluated, to assure compliance with public purpose and legislative intent.

Concern was expressed that while S.B. No. 18 would provide for all appropriations made after its effective date, there would be no standards for those grants made this year as mandated by the Constitution. As such, your Committee added a new section, effective only until June 30, 1979, whereby persons requesting money shall prove to the legislature that such grant is serving a public purpose. In proving public purpose, criteria will be used similar to that provided in section -4(b) of this bill. Your Committee

felt this provision was adequate to cover the problem, as this bill would pass prior to the budget this year.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 18, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 18, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 312 Judiciary on S.B. No. 181

The purpose of S.B. No. 181 is to support increased efforts by prosecuting attorneys' offices to prosecute career criminals through organizational and operational techniques that have proven effective in selected counties in other states. Your Committee finds that a substantial amount of serious crime is committed by a relatively small number of multiple and repeat felony offenders, commonly known as career criminals. S.B. No. 181 is an attempt to alleviate this ever increasing problem.

S.B. No. 181 was amended to refine the criteria used in identifying a career criminal. Testimony was heard from the Honolulu Police Department, who stated that the amended criteria are those presently being used for career criminal prosecution efforts by themselves, Prosecuting Attorney's Offices of all the counties, and the Department of Data Systems.

Your Committee also amended S.B. No. 181 to provide that career criminal prosecution cases be given preference on the trial calendar. Mindful of possible 14th Amendment Constitutional questions in this area, your Committee felt it in the best interests of the people of Hawaii that these cases be resolved as quickly as possible. Your Committee also notes that prompt disposition is one of the purposes and functions of such a program.

A section was also added directing the criminal justice information data center (currently the Statistical Analysis Center, under jurisdiction of the Judiciary) to provide necessary information to the program. Your Committee felt such a mandate was important to insure availability of statistics to be used in identifying and tracking career criminals.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 181, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 181, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 313 Judiciary on S.B. No. 395

The purpose of this bill is to appropriate certain sums of money out of the general revenues of the State of Hawaii for the purpose of satisfying claims for overpayment of taxes or on account of other claims for refunds, reimbursements, or other payments.

Your Committee amended S.B. No. 395 to add the names of the people to which the money is to be appropriated, and sums requested.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 395, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 395, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 314 Judiciary on S.B. No. 1281

The purpose of S.B. No. 1281 is to provide legal services for incarcerated persons by the creation of an Office of Correctional Legal Services within the office of the governor.

Your Committee notes the opening sentence of Mr. Justice Powell's concurring opinion in Bounds v. Smith, 430 U.S. 817, at 833 (1976).

"The decision today recognizes that a prison inmate has a constitutional right of access to the court to assert such procedural and substantive rights as may be available to him under state and federal law."

Initially, we note with grave concern the divergence of testimony between the attorney general and the public defender. Your Committee holds both offices in high regard in the full realization of the prominent and important role both offices play in the promotion of justice. Their respective oaths of office require that this Committee should expect

only the highest standard of research and investigation in their testimonies.

Upon analysis, the testimony prepared by the deputy attorney general emphasized the following points:

(1) that the propriety of S.B. No. 1281 is constitutionally questionable because it would appoint the Office of Correctional Legal Services to service "indigent inmates to the exclusion of indigent citizens" which would "constitute a denial of equal protection";

(2) that adequate methods are already available to indigent inmates to obtain legal representation -- through the public defender, the Legal Aid Society of Hawaii, and "by members of the private bar on a pro bono basis"; and

(3) That S.B. No. 1281 "would allow complete representation . . . in all judicial matters" which would make its cost inestimably prohibitive.

1. Equal Protection. The deputy attorney general's indictment grounded on the Equal Protection Clause is a very serious one for two reasons. For one, it comes from the chief legal office of the State addressed to a serious constitutional concern. Secondly, if correct, that indictment would point out a fatal constitutional defect in any legislative effort to provide services to "indigent inmates to the exclusion of indigent citizens."

Your Committee's staff has researched this question and reports that such assertion is without a fragment of sound constitutional reasoning. It reports the following from the majority opinion of Mr. Justice Marshall in Bounds v. Smith, 430 U.S., at pages 831 and 832; respecting alternative methods of providing legal services to inmates:

"Among the alternatives are the training of inmates as paralegal assistants to work under lawyers' supervision, the use of paraprofessionals and law students, either as volunteers or in formal clinical programs, the organization of volunteer attorneys through bar associations or other groups, the hiring of full-time staff attorneys, working either in new prison legal assistance organizations or as part of public defender or legal services offices. Legal services plans not only result in more efficient and skillful handling of prisoner cases, but also avoid the disciplinary problems associated with writ writers, see Johnson v. Avery, 393 U.S., at 488; Procunier v. Martinez, 416 U.S. 396, 421-422 (1974). Independent legal advisors can mediate or resolve administratively many prisoner complaints that would otherwise burden the courts, and can convince inmates that other grievances against the prison or the legal system are ill-founded, thereby facilitating rehabilitation by assuring the inmate that he has not been treated unfairly. It has been estimated that as few as 500 full-time lawyers would be needed to serve the legal needs of the entire national prison population. Nevertheless, a legal access program need not include any particular element we have discussed, and we encourage local experimentation. Any plan, however, must be evaluated as a whole to ascertain its compliance with constitutional standards." (Emphasis added.)

It is also obvious that the confinement of indigent inmates inhibits their access to normally available sources of legal services in contradistinction against all other indigent citizens. That fact alone would constitutionally support legislative effort to provide legal services to them "in exclusion of indigent citizens," as the United States Supreme Court appears to have done in Bounds v. Smith, supra.

At this point, we would point out that each and every member of this Committee would find repugnant and reprehensible every crime which properly brings inmates to incarceration. However, the ability to seek redress by those whose status may be the most repugnant and against society's norm is one of the main cornerstones of our democracy. We cannot turn our back on anyone's constitutional rights, and certainly, not in the name of equal protection.

Your Committee notes that the funding of Correctional Legal Services, Inc. has been obtained to date through 90%-federal funding which is scheduled to terminate in a few months. Our inquiries indicate that the federal funding is very carefully monitored as to equal protection violations, and that the allegation as made by the deputy attorney general is without basis.

2. Adequacy of Presently Available Services. The deputy attorney general indicates that adequate methods are already available to indigent inmates to obtain necessary legal services by way of the public defender, the Legal Aid Society, and members of the private bar.

Your Committee has investigated this allegation and has found it also to be without adequate basis. It is particularly on this point that the testimonies of the attorney general and the public defender appear to be at odds. The attorney general's statement is that,

" . . . the Public Defender can continue, and is obligated to provide . . . representation (in criminal and prison administrative proceedings.)"

The public defender says to the contrary that,

"I am particularly concerned that the termination of the services which are currently being provided by the Hawaii Correctional Legal Services program will leave our prisoners virtually without constitutionally required legal representation. The public defender's office is neither budgeted nor staffed to take over the cases currently being handled by the correctional legal services program. Funding for prisoner's legal services has been deleted from the public defender's budget in anticipation of the continuation of the correctional legal services program."

Investigation reveals that the public defender, prior to the establishment of Correctional Legal Services, Inc., had rendered substantial services to inmates in parole board hearings and criminal appeals, but did not avail adequate services in habeas corpus proceedings or at disciplinary hearings. Your Committee's staff is unable to find a legal basis for the deputy attorney general's conclusion that the public defender is obligated to provide representation in the latter category of matters.

Your Committee also made inquiry of the Legal Aid Society and is informed that the services requested by inmates are often very low on its scale of priorities, and the Society is unable to provide adequate services to inmates.

Your Committee's inquiry reveals that contrary to the attorney general's assertion, it is precisely because of the inadequacy of the services being offered by the public defender, the Legal Aid Society, and the private bar that the Hawaii State Bar Association, pursuant to a grant from the American Bar Association, conducted a study of the need for a prison legal review program and rendered its final report in May 1975. Such gave birth to the establishment of Hawaii Correctional Legal Services, Inc. with federal funding through SLEPA.

3. Overbreadth of S.B. No. 1281. Your Committee is concerned about the issue of overbreadth of Correctional Legal Services, Inc.'s functions alleged by the attorney general. S.B. No. 1281 seeks appropriation for the specific sum of \$120,899, which is subject to detailed scrutiny by the Committee on Ways and Means. If the extension of correctional legal services is to be held to a specific budget, the argument against its "inestimable" cost loses all vitality.

Your Committee is informed that the recommended annual budget for Hawaii Correctional Legal Services, Inc. was initially \$100,000, but that the actual budget obtained was \$80,000, and that the latter was buttressed by free rent valued at \$15,000 annually. Inquiry indicates that Hawaii Correctional Legal Services, Inc. has rendered legal services in post-conviction proceedings, administrative grievances and disciplinary proceedings, parole matters, and family law and civil rights matters. The concern regarding overbreadth can also be met by legislative scrutiny of the organization's budget and caseload schedules. As such, your Committee does not find the allegation of "inestimable" cost to be properly founded.

Inquiries with corrections personnel leaves your Committee with no doubt that continuing to extend legal services to indigent inmates is imperative. We are informed that the corrections function of the State will be severely jeopardized if such services should be terminated.

4. S.B. No. 1281, S.D. 1. Your Committee's inquiry reveals that the author of the attorney general's testimony is the deputy attorney general who has chiefly represented the State in opposing suits brought against the State by Correctional Legal Services, Inc.'s inmate clients.

Our investigation also reveals that at its inception, Hawaii Correctional Legal Services, Inc. appears to have brought some questionable suits against the State, which have had to be concluded in various fashions that appear to reflect their lack of initial merit. In all fairness to the present board and staff of Hawaii Correctional Legal Services, Inc., your Committee did find that the responsibility for bringing these seemingly bad cases lies with previous leadership.

If the present hassle over S.B. No. 1281 arises over the situation as indicated above, then opposition to S.B. No. 1281 appears petty and unmindful of the greater professional responsibility of all lawyers to promote justice. Nonetheless, in order that there will be a direct line of accountability for the expenditures of public funds in the extension of correctional legal services, your Committee has amended S.B. No. 1281 to place the functions sought by that bill in its original form under the supervision of the public defender.

5. The Problem of Potential Conflict of Interest. Your Committee notes that the problem of conflict of interest bears heavily on the rendering of correctional legal services by the public defender. We note the public defender's testimony as follows:

"[E]ven if the public defender's office were adequately staffed, the termination of the Hawaii Correctional Legal Services program would result in problems of conflict of interest which the public defender's office occasionally encountered prior to the establishment of the correctional legal services program. These cases involved complaints which challenged the effectiveness of the legal representation provided by the public defender's office. Prior to the correctional legal services program, prisoners had to rely solely upon the public defender's office for legal services. This situation placed the office in the position of a conflict of interest whenever a complaint related to the quality of representation which it provided. The correctional legal services program has eliminated such conflict of interest situations and has thereby subserved the integrity of the criminal justice system."

Your Committee's inquiries respecting the foregoing statement and every other assertion made in the public defender's testimony were found adequately based. We are by such testimony confident that the public defender can, and will, provide the supervision necessary to give the Office of Correctional Legal Services adequate impetus in its initial years under full state funding.

Accordingly, S.B. No. 1281 has been amended in the form of S.D. 1 to place the Office of Correctional Legal Services within the office of the public defender as distinguished against its placement within the office of the governor.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1281, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1281, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 315 (Majority) (Joint) Human Resources and Transportation on S.B. No. 1391

The purpose of this bill is to convert the current Special Projects Manager, Air Transportation Facilities Division, Department of Transportation, to civil service status within the provisions of Chapters 76 and 77 (Civil Service Law and Compensation Law).

Your Committees find that the current Special Projects Manager has held this exempt position since February 1969. His duties as a section head include the direction and coordination of planning studies performed by consultants, preparation of a project schedule and monitoring of work. In addition, the Manager directs and coordinates the preparation of environmental impact statements.

Your Committees further find that a comparable position of a highway planner in the highways division is covered under Chapters 76 and 77. Your Committees feel that the Special Projects Manager should also be granted civil service status to maintain equity. Further, this position is funded through the Department's CIP budget, therefore, funding for this position will always be available, and this bill will not affect the Department's operating budget.

Your Committees on Human Resources and Transportation are in accord with the intent and purpose of S.B. No. 1391 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committees.
Senator Abercrombie did not concur.

SCRep. 316 Transportation on S.B. No. 172

The purpose of this bill is to broaden driver license exemptions for non-residents.

Your Committee finds that this bill will end discrimination against some U.S. citizens caused by the omission of certain jurisdictions.

Your Committee has amended this bill by specifying one additional jurisdiction, the District of Columbia.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 172, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 172, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 317 Judiciary on S.B. No. 179

The purpose of this bill is to facilitate the payment of witness expenses by transferring the responsibility of determining the amount due a witness for service and transportation from the clerk of the court to the attorney who subpoenaed the witness.

S.B. No. 179 was amended to mandate the Judiciary to provide the certificate book. This was done for uniformity so that all the necessary information as well as numbering system used would be consistent.

Your Committee also amended S.B. No. 179 to retain the twelve-month deadline for issuing certificates. Testimony was heard from Mr. Donald Tsukiyama, Public Defender, who felt such time limits were necessary.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 179, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 179, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 318 Judiciary on S.B. No. 481

The purpose of this bill is to reduce the amount of compensation awarded under the Compensation to Victims or Dependents statute, if the commission finds that a victim was partially responsible for his death or injury. The standard by which the commission shall determine the amount of compensation awarded shall be based upon a comparative negligence standard.

Your Committee has accordingly amended section 351-31(c) to read as follows:

"In determining whether to make an order under this section, the commission may consider any circumstances it determines to be relevant, and the commission shall consider the behavior of the victim, and whether, because of provocation or otherwise, the victim bears any share of responsibility for the crime that caused his injury or death and the commission shall reduce the amount of compensation in [accordance with its assessment of the degree of such responsibility attributable to the victim.] proportion to the amount of responsibility for the crime which caused the victim's injury or death; provided that if such proportion is greater than the responsibility of the person who committed the act or omission or in the case of more than one person, the aggregate responsibility of such persons because of whom compensation is sought, the commission shall not award any compensation to such victim."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 481, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 481, S.D. 1 and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 319 Transportation on S.B. Nos. 642, 1385 and 1691

The purpose of these bills is to appropriate funds for various projects relating to the highways of the State.

Your Committee on Transportation is in accord with the intent and purpose of S.B. Nos. 642, 1385 and 1691 and recommends that these bills pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 320 Transportation on S.B. No. 538

The purpose of this bill is to provide funds to Civil Air Patrol Units on Oahu and to increase the total allocation to the Civil Air Patrol.

Your Committee finds that under present law, a grant of \$75,000 is awarded annually to the Civil Air Patrol with the stipulation that no less than \$3,000 be awarded to units outside the City and County of Honolulu. Thus, no monetary support is directly provided to those units on Oahu. Your Committee feels that this situation is inequitable.

Your Committee has amended this bill to make specific findings regarding the public interest and public purpose of the Civil Air Patrol and to include reporting and auditing requirements

so that the Civil Air Patrol will conform to the requirements of new Article VII, Section 4, of the state constitution.

Your Committee has further amended this bill to correct certain clerical errors.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 538, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 538, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 321 (Joint) Transportation and Intergovernmental Relations on S.B. No. 853

The purpose of this bill is to continue exemptions from the vehicle weight tax for disabled persons who are veterans and who own their cars.

Your Committees find that many disabled veterans are unemployed or on fixed incomes and that because of their disabilities, these veterans need exemptions for their cars in order to enable them to be more self-sufficient.

Your Committees further find that there are many other persons who are handicapped. These persons are also unemployed or on fixed incomes and because of handicaps, have limited mobility and require special vehicles for transportation. The state and county vehicle weight taxes are economically burdensome to handicapped persons, and an exemption from the vehicle weight tax for vehicles used by these persons is necessary in order to enable them to be more self-sufficient. These persons must drive vehicles of greater weight so that the vehicles can be properly equipped.

Your Committees have amended this bill to grant an exemption from the vehicle weight taxes for handicapped persons who drive these specially equipped vehicles, and are so certified by their physicians.

Your Committees on Transportation and Intergovernmental Relations are in accord with the intent and purpose of S.B. No. 853, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 853, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees.

SCRep. 322 Transportation on S.B. No. 958

The purpose of this bill is to appropriate funds for the acquisition of limited waterfront land, planning and construction of a strategic and accessible boat ramp at Honuapu, Ka'u, Hawaii.

Your Committee adopted the recommendation of the department of transportation by amending section 1 of the bill to appropriate the funds for planning of a boat ramp in the Ka'u district.

The purpose of the amendment to the bill is to enable the department of transportation to conduct in-depth studies including Honuapu and other possible suitable ramp sites nearby.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 958, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 958, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 323 Transportation on S.B. No. 1024

The purpose of this bill is to appropriate funds for safety improvements to the Hawaii Belt Highway between Milolii and Honaunau, Kona.

Your Committee amended the bill to appropriate the sum of \$500,000 to effectuate the purpose of the bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1024, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1024, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 324 Transportation on S.B. No. 1087

The purpose of this bill is to appropriate funds for plans and construction of a coastal highway between Puna and Hilo.

Your Committee amended the bill to appropriate \$100,000, and your Committee adopted the recommendation of the department of transportation by changing the expending agency from "department of transportation" to "department of public works, county of Hawaii".

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1087, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1087, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 325 Transportation on S.B. No. 1371

The purpose of this bill is to continue the exemption and exclusion from Hawaii general excise and use taxes for activities in and income derived from the conduct of interstate and foreign business, to the extent such activities and income were treated as exempt by the State of Hawaii on April 1, 1978. This bill would continue the tax status of interstate business as it existed prior to the decisions of the United States Supreme Court in Department of Revenue of Washington v. Association of Washington Stevedoring Companies, 55 L.Ed.2d. 682 (1978); Complete Auto Transit, Inc. v. Brady, 430 U.S. 274 (1977); and Michelin Tire Corporation v. Wages, 423 U.S. 276 (1976).

Among the activities for which an exclusion from taxation is continued by the bill are those listed in Tax Information Release Number 56-78, issued June 15, 1978 by the State of Hawaii, Department of Taxation, and those treated as exempt or excluded in opinions of the Attorney General of Hawaii. See, e.g., Hawaii Attorney General Opinion No. 1720, August 22, 1939, Hawaii Attorney General Opinion No. 2253, June 3, 1943.

The decision of the United States Supreme Court in Department of Revenue of Washington v. Association of Washington Stevedoring Companies, *supra*, overruled the historic exclusion from taxation under constitutional principles that had been enjoyed by interstate business for over forty years. Although your Committee does not question the correctness of the constitutional principles set forth in the Washington Stevedoring decision, it believes that application of these new principles in the State of Hawaii would be disruptive to the economy and welfare of the State. Specifically, these new principles and the Washington Stevedoring decision do not take into account the unique geographic location of the State of Hawaii and the importance to the State of maintaining a cost-effective, ocean-going and air transportation lifeline to the State free from additional taxation. The result of any taxation under the new principles would be an increase to the cost of goods that would be paid by consumers and businesses in Hawaii. Based on these considerations, the State of Hawaii, Department of Taxation, in Tax Information Release Nol. 58-78, issued July 21, 1978, announced its decision not to apply new taxes in Hawaii under the Washington Stevedoring decision. This bill would confirm and continue the taxing policies established under Tax Information Release No. 58-78.

The Department of Taxation requested a clarifying amendment to confirm that activities that were taxable prior to adoption of the new constitutional principles that were controlling in the Washington Stevedoring decision such as activities held taxable in HC&D Moving & Storage Co. v. Yamane, 48 Haw. 486, 405 P.2d 382 (1965), would not be exempted from tax under the bill.

Your Committee has made an appropriate change for this purpose. Such change is not intended to affect the tax status of activities listed in the above Tax Information Release and Attorney General's Opinion.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1371, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1371, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 326 Transportation on S.B. No. 1437

The purpose of this bill is to amend Section 291C-194, Hawaii Revised Statutes, to require

of any person driving a moped an instruction permit issued in accordance with Section 286-110; and to amend Section 291C-202, Hawaii Revised Statutes, to require that all mopeds shall be subject to an annual safety inspection, the criteria for which shall be established by the director of transportation. In addition, the bill clarifies certain technical ambiguities.

Your Committee finds that there is a need to establish more specific laws regarding mopeds due to the increase of mopeds in our state. Your Committee further finds that with the increase of mopeds, there must also be an increase of safety measures.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1437 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 327 Transportation on S.B. No. 1614

The purpose of this bill is to appropriate the sum of \$50,000 for the installation of free emergency telephones on the H-1 and H-2 highways.

Your Committee adopted the recommendation of the department of transportation by amending the bill to provide funds for a study to determine the type and location of the emergency telephone systems. Your Committee also inserted a lapse date of June 30, 1980.

Your Committee on Transportation 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 referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 328 (Majority) Transportation on S.B. No. 1716

The purpose of this bill is to establish an office of bicycle transportation headed by a bicycle transportation coordinator in the department of transportation. This office would coordinate the bikeway program for the State. This bill also provides that the county shall prepare and adopt a bikeway master plan which would include stringent requirements and details and would be submitted to the bicycle transportation coordinator for review and approval.

Your Committee finds that there is a need for a greater emphasis on bikeways and the interests of bicycle enthusiasts in the department of transportation.

Your Committee believes that establishing a bicycle coordinator within the DOT would be adequate to aid in perpetuating bikeway interests.

Your Committee has amended this bill to delete portions relating to the county bikeway master plan. In addition, your Committee has further amended this bill to streamline the tasks of the bicycle coordinator.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1716, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1716, S.D. 1, 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. 329 Transportation on S.B. No. 1758

The purpose of this bill is to extend to five years the existing one year limitation on the State's right to sue for deficiencies in the disposal of abandoned vessels, to authorize the Department of Transportation to assess and to collect all expenses incurred incidental to taking custody of and disposing of an abandoned vessel, and to clarify provisions relating to the disposition of proceeds derived from the sale of abandoned vessels.

Your Committee finds that the existing one-year limitation on the State's right to claim for any deficiency is inadequate. The Department of Transportation testified that the necessary procedures cannot be completed in one year and that the owner-debtor cannot always be located in that time.

Your Committee has amended this bill to allow the owner five years after the sale of the vessel to file a claim for the balance of the proceeds with the Department of Budget and

Finance. Your Committee feels that the owner should be entitled to the same period of time to make his claim to the State. The Department of Transportation testified that they had no objection to this amendment.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1758, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1758, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 330 Housing and Hawaiian Homes on S.B. No. 153

The purposes of this bill are to: (1) increase the amount the department of Hawaiian home lands is authorized to borrow from government agencies or private lending institutions by raising the State's liability, contingent or otherwise, from its present \$18,000,000 to \$21,000,000; and (2) further specifies that the State's liability, contingent or otherwise, either on moneys borrowed by the department or on departmental guarantees of loans made to lessees from government agencies or private lending institutions for repair, maintenance, purchase, and erection of a dwelling and related improvements shall be subject to the \$21,000,000 ceiling.

In reporting out this measure, the Committee is aware of and calls to your attention the following pertinent language of the Hawaii State Constitution:

"ARTICLE VII

TAXATION AND FINANCE

Section 13. . . . In determining the power of the State to issue general obligation bonds or the funded debt of any political subdivision under section 12, the following shall be excluded:

* * *

8. Bonds constituting instruments of indebtedness under which the State or any political subdivision incurs a contingent liability as a guarantor, but only to the extent the principal amount of such bonds does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under this section; provided that the State or political subdivision shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State or political subdivision as provided by law."

To achieve these purposes S.B. No. 153, a short form bill, has been provided with the necessary text.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of S.B. No. 153, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 153, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 331 (Joint) Agriculture and Economic Development on S.B. No. 1155

The purpose of this bill is to make an appropriation for an engineering/economic feasibility study regarding the transporting of soil and organic matter from the Hilo Coast Processing Company's mill at Pepeekeo to the Hilo-Panaewa area of the island of Hawaii.

Your Committees find that approximately 1 million tons of soil and organic waste annually, or between 700 and 800 acre feet of top soil, is involved. If the transportation of the waste proves feasible, several benefits are immediately foreseen: a permanent solution to the H.C.P.C. soil and waste disposal problem, which now costs about \$1 million is one benefit; the creation of many acres of prime farm land out of otherwise waste lava fields is another; the solution to a large part of the county's sewage disposal problem is still another; finally, it would permit sugar production on about 200 acres of prime cane field adjacent to the Pepeekeo mill. These potential benefits would be worth millions of dollars.

Your Committees are of the opinion that the feasibility study contemplated should be funded immediately, and that this is an investment opportunity which should not

be passed up.

Your Committees on Agriculture and Economic Development are in accord with the intent and purpose of S.B. No. 1155 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Carpenter and Anderson.

SCRep. 332 Agriculture on S.B. No. 59

The purpose of this bill is to make an appropriation for the development and implementation of a statewide master plan for diversified agriculture.

Your Committee finds that the plan would greatly benefit the diversified agriculture industry and the State if it addressed:

1. The identification of commodities and crops which can be developed in the State;
2. The evaluation of each such commodity or crop as to its potential economic value, its growth potential, its comparative advantage as a State commodity or crop and its relative place in a list of recommended commodities and crops for the State;
3. The identification and evaluation of a total transportation system for the movement of various commodities to ensure an integrated, efficient and effective system for the shipping of interstate and outbound commodities;
4. The feasibility of creating a Statewide cooperative mechanism to enhance the programming of production, handling and marketing of local agricultural commodities;
5. Statutory changes which may be necessary to accomplish recommended actions.

Your Committee finds that the planning process should be a continuing, dynamic activity rather than a one-time affair which a specific appropriation implies. Therefore, your Committee requests the Department of Agriculture to incorporate agricultural planning in its budget for ensuing years.

Your Committee has amended Section 3 of the bill to make the Department of Agriculture, rather than the Governor's Agriculture Coordinating Committee, the recipient of the appropriation. Your Committee finds that the Department is the logical locus for the appropriation. In addition, Section 3 has been amended by filling in the blank space designating the year in which the appropriation will lapse so that it will read "1981".

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 59, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 59, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 333 (Majority) Agriculture on S.B. No. 64

The purpose of this bill is to make an appropriation for research programs on seed, feed and forage crops.

Your Committee finds necessary the augmentation of the existing research project on seed, feed and forage crops for livestock, and to expand and accelerate research on the subject. This project is especially vital; the State is recognized as the world leader in the development of hybrid seed varieties, and thus has the potential of developing a viable seed industry for feed and forage crops.

Although your Committee concurs with the intent of the bill, and has inserted the figure \$50,000 in the blank space provided in Section 2, to obviate the possibility of divergent views and direction in research activities, your Committee requests intense consultation between the University of Hawaii College of Tropical Agriculture and the Department of Agriculture to effectuate better coordination.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 64, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 64, S.D. 1, and be referred to the Committee on Ways

and Means.

Signed by all members of the Committee except Senator Anderson.
Senator Kawasaki did not concur.

SCRep. 334 Agriculture on S.B. No. 77

The purpose of this bill is to authorize the Department of Agriculture to manage, operate and coordinate the agricultural park program and to establish a revolving fund for purposes directly related to the operation of the system.

Your Committee finds that a clear delineation of authority and responsibility is necessary because of the current confusion over whether the Department of Land and Natural Resources has jurisdiction over state lands of which agricultural parks are a part.

In addition to providing the Department of Agriculture with necessary powers, there is established a revolving fund to permit the Department of Agriculture to operate the agricultural park system within its own revenue and expenditure constraints.

Your Committee has amended the bill by inserting \$1,000,000 in the blank space provided for an appropriation amount.

Additionally, section 4 has been deleted in its entirety, since your Committee believes it is contrary to the idea of the revolving fund and the provision of operating capital. A new section 4 has been added setting forth the effect of underscoring the bill.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 77, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 77, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 335 (Majority) Agriculture on S.B. No. 245

The purpose of this bill is to appropriate moneys for the construction of improvements at and the purchase of equipment for the Maui Vacuum Cooling Plant.

Your Committee finds that improvements to the plant, and additional equipment are necessary for the efficient and effective operation of the facility.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 245 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.
Senator Kawasaki did not concur.

SCRep. 336 Agriculture on S.B. No. 249

The purpose of this bill is to make an appropriation of \$100,000 to the Young Farmers' Program for its operation during the 1979-81 biennium.

Your Committee finds that the primary objectives of the program are: to encourage young people to consider farming as a career; to help them make a commitment to the farming industry; and to develop expertise in new techniques and methodologies in farming. This is accomplished by conducting short courses in a variety of farm-related subjects, by arranging and conducting field trips, field demonstrations, tours of existing farm operations, and the utilization of other organized group teaching methods. During the past two years this program has reached over 1,200 young farmers or approximately 40 per cent of the target population.

The following are examples of program activities:

1. Twenty-five courses, covering subjects such as plant and animal service principles; farm management principles; farm taxes and financial management; beekeeping; welding; and electrical systems, were conducted, and 607 young farmers attended.
2. Fifteen educational meetings with specifically defined groups were organized and conducted for various commodity groups, young farmers groups, Hawaii Farm Bureau Federation

groups, and part-time farmer groups. Total attendance: 275.

3. Individual farm visits to allow direct, one-to-one contact between young farmers and more established farmers were arranged and conducted. Total contacts: 500.

4. Educational meetings to provide encouragement and support to young farmer organizational and leadership efforts were held. Total attendance: 30.

These and other formal and informal efforts have led to increasing demands for educational programs for the target group; an increased number of young farmer groups now recognize the importance, and economic and social benefits resulting from the operation of the Young Farmer Program.

Your Committee is of the opinion that the worth of the Young Farmer Program has been proven, and an appropriation should be made to support the continuation of the program.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 249 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. 337 Agriculture on S.B. No. 251

The purpose of this bill is to appropriate moneys for the eradication of the fruit fly in Hawaii.

Your Committee finds that the cost to the State and its economy caused by the fruit fly is enormous. Crop losses, the cost of controlling the pest and the loss of potential agricultural development amounts to millions of dollars.

The appropriation requested in this bill is to provide state support for a joint Federal-State program. The U.S. Department of Agriculture, the State Department of Agriculture, the College of Tropical Agriculture, the Department of Land and Natural Resources and the Department of Transportation have been working to develop an eradication program. The requested appropriation will be used to establish a large mass rearing laboratory in Hawaii as part of the State's matching requirement.

Your Committee is of the opinion that the appropriation recommended is in the best interest of the State. If the eradication program is successful, the expenditure would constitute a "bargain".

Your Committee on Agriculture 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 Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 338 Agriculture on S.B. No. 1409

The purpose of this bill is to increase farming industry membership on the Governor's Agriculture Coordinating Committee, and to require Senate confirmation of these farming industry members.

Your Committee finds that the coordinating committee needs to be strengthened and has amended the bill to make a specific member of the governor's staff the chairperson of the committee, i.e., the special assistant for agriculture. In addition, representatives of the counties were included to provide input in the committee's deliberations although they shall have no vote. Your Committee also made technical changes to the bill which do not affect the substance of the bill.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1409, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1409, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 339 Agriculture on S.B. No. 1456

The purpose of this bill is to make an appropriation for research in the development of methods and means for pest control in Hawaii.

Your Committee on Agriculture finds that pest infestation severely hinders effective agricultural development, interfering with optimum breeding conditions in Hawaii; pest control is critical.

Your Committee has amended the bill to provide \$46,000 for the purpose of this bill, and to require that funds be expended by the Board of Pest Control.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1456 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1456, S.D. 1 and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 340 (Majority) Agriculture on S.B. No. 1530

The purpose of this bill is to appropriate moneys to identify alternative crops feasible for the Kohala area to ensure optimal utilization of lands in the Kohala area.

Your Committee finds that the feasibility of a growing feed and forage crops in Kohala is presently being investigated: Kohala is a logical place to continue research because of the availability of land and proximity to the beef-cattle industry. The appropriation contained in this bill will assure the continuation of this research effort.

Your Committee is of the opinion that the contemplated continuation of research efforts will be of benefit to the Kohala area and the State.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1530 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.
Senators Kawasaki and Carroll did not concur.

SCRep. 341 Agriculture on S.B. No. 1599

The purpose of this bill is to make an appropriation for a study to determine the feasibility of aseptic packaging and storage of guava, papaya and passion fruit purees.

Your Committee finds that aseptic packaging is a new technology now being used to transport and store tomato and banana purees and a variety of other fruit bases. Because of its potential in cost savings in processing, transportation and storage costs, an investigation for applicability to local fruit puree is desirable.

Your Committee has amended the bill in three respects:

1. Section 1 has been amended by changing the proposed appropriation from \$64,500 to \$80,000. This is the result of revised calculations of the cost to conduct the study.

2. Section 2 has been amended by substituting "department of agriculture" for the "University of Hawaii" as the expending agency. Although the University will conduct the study, the moneys will be given to the department of agriculture for expenditure to ensure coordination.

3. The blank year has been filled to read "1981". It is estimated that the study will take twelve months. Adding the inevitable start-up delays in financial and administrative matters, a two-year period to complete the project appears reasonable.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1599, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1599, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 342 Agriculture on S.B. No. 1657

The purpose of this bill is to assist those sugar farms whose costs of production exceed their returns until such time as adequate returns are received or the prospect for such returns are deemed unrealistic. To accomplish this purpose Act 19, Special Session Laws of Hawaii 1977, will be amended by this bill to provide coverage to larger farms, making an additional appropriation, and extending the time limit for the making of loans under the Act.

Your Committee finds that this assistance will prevent the abandonment of sugar cane farms that are in dire need. The State can ill afford the demise of the sugar industry.

Your Committee has amended the bill to permit assistance to farms which would otherwise be excluded. The term "deficit" has been amended to include a loss on farm operations for farms on an annual accounting basis, irrespective of the source of operating funds.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1657, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1657, S.D. 1, and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter and Anderson.

SCRep. 343 Agriculture on S.B. No. 1660

The purpose of this bill is to assist sugar processing cooperatives until such time as a reasonable price for sugar is obtained, and to avoid the real possibility of the collapse of the Hawaii county sugar industry and the resulting massive job losses directly and indirectly attributable to the Hawaii sugar industry. A shutdown of such magnitude would be catastrophic.

Your Committee finds that assistance to the sugar cooperative on the Hilo coast will avoid the collapse of the Hilo coast sugar industry. Your Committee is of the opinion that temporary support in the form of a subsidy today would be of benefit to the regional communities and would be economically prudent for the State in the long run.

Your Committee has amended the bill in the following manner to enable the purpose of the bill to be fulfilled:

The bill has been amended by deleting the word "may" and substituting the word "shall" to reflect the legislative intent that the assistance be mandated.

The bill has also been amended by allowing subsidies to be granted to associations substantially equivalent to those in Chapter 421, the State agricultural cooperative association law. This would permit a cooperative such as the Hilo Coast Processing Cooperative to qualify for assistance because it is organized under California laws which are substantially equivalent to Chapter 421 of the Hawaii Revised Statutes.

The bill has also been amended to more specifically define the operating period to which the assistance would apply.

The bill has also been amended to delay the lapsing clause from twelve months after the effective date of the Act, until thirty months after the effective date of the Act. This would allow the financial transactions pertaining to a year's operation to be completed and the amount of assistance necessary to be determined within a more reasonable time frame.

A new section (SECTION 6) has been added so that an equitable distribution of the moneys appropriated will be made if the appropriation is not adequate to meet all of the computed needs of the assistance program.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1660, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1660, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Carpenter and Anderson.

SCRep. 344 (Majority) Consumer Protection and Commerce on S.B. No. 209

The purpose of this bill is to provide for a group no-fault policy to cover public assistance recipients and to amend provisions of the no fault laws.

Your Committee, after much deliberation has amended this bill to delete the proposal for a group no-fault policy providing coverage for public assistance recipients. Your Committee decided that the group policy approach would not offer a substantially better mechanism than the present operation under the Joint Underwriting Plan.

Your Committee has subsequently changed the purpose of this bill so that it will now limit no-fault insurance for public assistance recipients. The bill would provide insurance on only one vehicle per welfare unit unless the Department of Social Services and Housing deems that another vehicle is necessary for medical or employment purposes. It would also require that the vehicle cannot be less than two years old or cannot be more than

\$2,000 according to the Kelly blue book or owners equity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 209, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 209, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Carroll did not concur.

SCRep. 345 Consumer Protection and Commerce on S.B. No. 658

The purpose of this bill is to increase the fee schedule to financial institutions for services in the State in order to create revenues needed to meet the cost of services.

Your Committee is in agreement with the testimony that was provided indicating this bill will establish a better relationship between revenues derived and the cost of services. Currently, administrative costs do not cover the costs of investigation, review and public hearings on applications. This bill will shift the burden of cost from the general taxpayer to the institution receiving the service.

This bill has been amended to correct the grammatical mistakes on page 8 of the original bill. Your Committee has also amended the bill by renumbering section 6 as 7 and adding a new section 6 stating the effect of the bracketing and underscoring in the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 658, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 658, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 346 Consumer Protection and Commerce on S.B. No. 659

The purpose of this bill is to increase the examination fee from \$37.50 to \$50.00.

Your Committee is in agreement with the intent of increasing the fee because of the increasing cost of administering the pharmacist examination.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 659 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. 347 Consumer Protection and Commerce on S.B. No. 889

The purpose of this bill is to allow the use of a substantially equivalent or a more favorable policy as compared to the New York 1943 standard form that is now mandated by law.

According to testimony received by your Committee, this bill will permit the introduction of improved and more understandable insurance forms. Testimony from the department of regulatory agencies confirms that a new improved form has been introduced in some jurisdictions, and that consideration of its introduction in Hawaii is impossible because of strict accordance with the New York 1943 standard form fire insurance policy.

Your Committee has amended this bill by making some grammatical changes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 889, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 889, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 348 Consumer Protection and Commerce on S.B. No. 891

The purpose of this bill is to enable the fire chief of each county to obtain information from an insurer in the investigation of fires caused by arson. Immunity is also provided for if the insurer is required to produce information.

Arson is considered the fastest growing crime in America, increasing at the rate of

over 25 per cent a year. In Hawaii, during fiscal 1977, arson caused \$4.5 million in property loss or damage which was triple the figure for 1975. Arrests have been very low, with only nine arrests and two convictions per 100 cases according to the FBI. Your Committee believes that this bill will aid in the solution of arson cases.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 891 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 349 Consumer Protection and Commerce on S.B. No. 893

The purpose of this bill is to strengthen the enforcement provisions of the no-fault law.

Your Committee has received testimony from the Motor Vehicle Insurance Division stating that this bill is necessary because violators have been able to escape the minimum mandatory fine of \$100 under present law.

Your Committee has amended this bill to further clarify the penalty provision and to include other penalties required under section 805-13(c).

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 893, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 893, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 350 Consumer Protection and Commerce on S.B. No. 1115

The purpose of this bill is to require the Insurance Commissioner to publish annually the motor vehicle insurers and their annual premium rates.

Your Committee is in agreement that this bill will be beneficial to consumers when shopping for motor vehicle insurance.

Your Committee has amended this bill to give the Insurance Commissioner the option to publish the names of the insurers and their rates in a publication other than a newspaper if the Commissioner so desires. This will give the Commissioner the choice of printing a booklet.

Your Committee has further amended this bill to appropriate \$6,000 to the Insurance Commissioner through the Department of Regulatory Agencies to use at his option in meeting the first year's cost requirements. It is therefore requested that this bill be referred to the Committee on Ways and Means.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1115, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1115, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yee.

SCRep. 351 Consumer Protection and Commerce on S.B. No. 1492

The purpose of this bill is to amend the Standard Valuation and Nonforfeiture provisions of the insurance law by increasing the rate of interest which life insurers use in their actuarial calculations to establish policy reserves and nonforfeiture benefits which must be guaranteed to policyholders.

Your Committee was informed by the department of regulatory agencies that the changes in the Standard Valuation and Nonforfeiture provisions as set forth in this bill were recommended by the National Association of Insurance Commissioners to bring the laws more in line with current and anticipated future investment returns and to modernize the laws in other respects.

The pertinent provisions of the bill are as follows:

1. Increase rates of interest effective June 1, 1979 as follows:

a. Single premium life insurance policies other than annuity and pure endowment contracts from 4 per cent to 5-1/2 per cent.

b. Individual single premium immediate annuity contracts from 6 per cent to 7-1/2 per cent.

c. Individual single premium deferred annuity and pure endowment contracts from 4 per cent to 5-1/2 per cent.

d. Group annuity and pure endowment contracts from 6 per cent to 7-1/2 per cent.

e. All others from 4 per cent to 4-1/2 per cent.

2. Interest rates for calculating minimum nonforfeiture benefits for life insurance policies are increased from 4 per cent to 6-1/2 per cent for single premium whole life or endowment policies and 5-1/2 per cent for all other policies.

3. In calculating the reserve and nonforfeiture benefits for female risks, an age not more than six years younger than the actual age of the insured may be used. Presently, an age not more than three years younger is permitted.

4. Adds a new Standard Nonforfeiture Law for Individual Deferred Annuities. Presently, we do not have any standard law defining guaranteed nonforfeiture benefits to policyholders for individual deferred annuities. This bill will fill the gap.

Your Committee has amended the bill to correct typographical and spelling errors as well as to provide two new sections so that the benefits of the modernization of the Standard Valuation and Nonforfeiture laws will also be applicable to fraternal organizations covered by Chapter 434 of the Hawaii Insurance Law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1492, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1492, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Yee.

SCRep. 352 Consumer Protection and Commerce on S.B. No. 1545

The purpose of this bill is to increase the license renewal fee from \$10 to \$20.

Your Committee is in agreement with increasing the license renewal fee because of increasing administration costs.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1545 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. 353 Intergovernmental Relations on S.B. No. 709

The purpose of this bill is to remove the Special/Use Permit application process from the county commission and place the responsibility with an agency designated by the particular county in which the land is situated.

Testimony in favor of the bill indicates that such a change would eliminate costly delays, improve coordination within the county and eliminate the conflicts and inconsistencies which occur because the planning commission's concepts may differ from the county council.

Your Committee amended the bill to allow relevant agencies of the State input on special use permits at an earlier stage in the proceedings. Effectively, State agencies can have input at the county level, before it reaches the Land Use Commission, thereby creating a more efficient processing system.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 709, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 709, S.D. 1, and be referred to the Committee on Economic Development.

Signed by all members of the Committee except Senators George and Yee.

SCRep. 354 Health on S.B. No. 1611

The purpose of this bill is to amend Section 572-7, Hawaii Revised Statutes, by requiring that every applicant for a marriage license be required to receive serologic testing for rubella.

Department of Health testimony stated that 30% of the women of childbearing age in Hawaii are at risk of having babies born with defects caused by congenital rubella syndrome. A simple blood test done on the same specimen of blood currently required for syphilis testing can determine if the woman is susceptible or immune to rubella. The Hawaii Public Health Association pointed out that rubella susceptibility of women in Hawaii between the ages of 18-25 is the highest in the nation.

The Hawaii Medical Association expressed concern over the area of effective follow-up and actual immunization itself, as well as adequate funding for these procedures.

Your Committee adopted the recommendation of the Department of Health by adding two sections to the bill. One section appropriates \$50,000 per year to be expended by the Department of Health in carrying out the required testing. The other amendment provides that the Health Department shall be responsible for the follow-up and immunization of those women found to be susceptible to rubella.

We recognize the severe medical consequences to the newborn and mental burdens imposed on the family associated with rubella syndrome, and feel that this bill addressing the prevention, screening, and education of rubella syndrome is in the best interest for the health and well-being of child-bearing women in the State.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1611, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1611, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Takitani, Saiki and Yee.

SCRep. 355 (Majority) Human Resources on S.B. No. 663

The purpose of this bill is: (1) to enable the Department of Social Services and Housing to correctly determine that persons are disabled and thereby eligible for General Assistance provided that such persons meet all other requirements of the program and (2) to include employed persons without sufficient income and resources as individuals who may also qualify for General Assistance provided that such persons meet all the requirements of the GA program.

Your Committee finds that under current statutes, disabled persons unable to work as defined in this Section may receive assistance upon determination and certification by a licensed physician. However, the Department of Social Services and Housing has been experiencing difficulties with this provision due to inconsistencies in medical reports by different doctors. In some instances, incomplete or vague medical reports have made it difficult for the Department to determine eligibility. Moreover, outdated medical information about a patient's prior disability is often provided, or similar information for different patients is submitted by the same physician.

Your Committee further finds that the Department of Social Services and Housing recently arranged for applicants without a personal physician to be examined at Queen's Medical Center. This procedure has resulted in a better working relationship between the Department and the examining facility; furthermore, the facility has been able to complete the medical forms with the correct and specific information required by the Department.

This bill insures that the Department of Social Services and Housing shall provide General Assistance only to those persons who are truly disabled by giving the Department the discretion to require disability determination and certification by a licensed physician in GA eligibility cases.

Your Committee further finds that presently, employed persons may be eligible for General Assistance provided that these persons meet all requirements of the GA program. Current law, however, is not sufficiently specific on this point. This bill clarifies that the employed as well as the unemployed may receive assistance under the eligibility provisions of our General Assistance Law.

Your Committee has made technical amendments to this bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 663, as amended herein, and recommends that it pass Second Reading in the form

attached hereto as S.B. No. 663, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.
Senator Abercrombie did not concur.

SCRep. 356 Human Resources on S.B. No. 1755

The purpose of this bill is to prohibit applicants or recipients of general assistance from assigning or transferring interest in any real or personal property within one year immediately preceding application for general assistance for the purpose of qualifying for or increasing the amount of general assistance to be received.

Your Committee finds that in recent years, the Department of Social Services and Housing has been very concerned about the increasing number of applicants who transfer funds or property in order to qualify for public assistance or to increase their public assistance grants. Incidents have occurred where recipients assign or transfer their property to relatives or other people for as little as \$1.00 instead of obtaining the financial benefits of the open market system. These recipients then become eligible for public assistance due to lack of sufficient resources.

This bill prohibits applicants and recipients from transferring real or personal property for less than fair market value within one year prior to application for assistance or during receipt of public assistance. This bill further insures that in cases where these transfers occur, such recipients become ineligible for General Assistance up to one year.

Your Committee feels that this bill would be a cost savings to the State in terms of administering the GA program and reducing the amount of public assistance to those who do not truly qualify.

Your Committee has amended this bill to delete any reference to "personal property".

Your Committee recognizes the ambiguity of the term "personal property" as used in this bill because a set dollar amount or limit on the amount transferred is not specified. It would be difficult, for instance, to determine whether presents such as wedding or birthday gifts constitute a "transfer".

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1755, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1755, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators O'Connor and Anderson.

SCRep. 357 (Joint) Human Resources and Housing and Hawaiian Homes on S.B. No. 667

The purpose of this bill is to amend section 363-1, Hawaii Revised Statutes, to redefine a "veteran" to include any person who has served in the armed services of the United States and was discharged under honorable conditions. The bill also clarifies the provisions under which the State will bear the cost not borne by the federal government for homes designed for wheelchair living for veterans who were bona fide residents of the State prior to entering active service and were disabled during a war or campaign in which the United States was engaged.

Your Committees on Human Resources and on Housing and Hawaiian Homes heard testimony from Mr. Andrew Chang, Director, Department of Social Services and Housing, assuring that veterans who are qualified for a federal grant could still qualify for the benefits under this section.

Your Committees on Human Resources and on Housing and Hawaiian Homes are in accord with the intent and purpose of S.B. No. 667 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators O'Connor and Anderson.

SCRep. 358 (Joint) Human Resources and Housing and Hawaiian Homes on S.B. No. 1483

The purpose of this bill is to allow the Hawaii Housing Authority to pursue the goal established by the Federal Department of Housing and Urban Development to provide that 25 percent of the Authority's work force for the public housing program be comprised of persons residing in housing projects maintained or operated by the Authority. Currently there are some permanent employees who reside in the Authority's projects and can be

counted toward this goal, the majority of these are comprised of persons employed under the tenant hire program. The tenant hire program was established specifically to accommodate this goal, and staffed with project residents employed for under 20 hours a week. The department of personnel services, however, has challenged the exemption of these persons from civil service status. The purpose of this Act is to clarify this policy through statutory amendment.

Your Committees received testimony from the Hawaii Housing Authority in favor of the bill. Your Committee on Housing and Hawaiian Homes contacted the Department of Personnel Services, and the Department is not opposed to the passage of this bill.

Your Committees on Housing and Hawaiian Homes and on Human Resources are in accord with the intent and purpose of S.B. No. 1483 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators O'Connor and Anderson.

SCRep. 359 Judiciary on S.B. No. 23

The purpose of this bill is to conform the Hawaii Revised Statutes to amendments to Article VII, Section 8 and 9 of the State Constitution, as effected by the Constitutional Convention of 1978.

S.B. No. 23 sets a ceiling for State expenditures by requiring that State general fund appropriations and proposed appropriations in any year not exceed the estimated rate of growth of the State's economy for that year. This estimated rate of growth will be established by the director of finance and determined by averaging the annual percentage change in total state personal income for the three fiscal years immediately preceding the session of the legislature making appropriations.

The governor is required to take this rate of growth into consideration by submitting a plan of proposed expenditure along with the State budget, the proposed expenditures not increased by more than the ceiling established by the State growth

The legislature is prohibited from making appropriations from the general fund which will increase those appropriations by more than the same ceiling in State growth for the preceding fiscal year.

Your Committee recommends that both the governor and legislature be allowed to exceed the appropriation allowed if the proper reasons are set forth. Also, both must decrease appropriations if the percentage change in the State growth for the preceding fiscal year has decreased.

Your Committee heard testimony from the Department of Budget and Finance and The Chamber of Commerce, and decided to use fiscal years as the basis for which the average change in total State personal income would be determined. The director of finance recommended calendar years, as it was felt an indicator was all we were looking for, and calendar years would give the state departments the time necessary to prepare their budgets. Your Committee, however, felt that using fiscal years would provide a more accurate indicator, as it would be six months more current. It was felt that the use of this more recent figure would not hinder the administration's ability to form their budgets.

In calculating the average percentage change in total State personal income, your Committee recommends that the director of finance use data from reliable federal sources. There was testimony to the effect that the use of State data to determine this figure may come under extreme criticism as being biased. Your Committee concurred with this sentiment.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 23, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 23, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 360 Judiciary on S.B. No. 25

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978 and which pertain to real property tax assessment.

S.B. No. 25 was amended after much concern was expressed that in turning over the

real property tax assessment function to the counties, the director of taxation may relinquish control over the tax maps. These maps are the major research tool used by persons dealing in real estate, attorneys, and many other members of the general public in dealing with land title and interests. The greater number of these people are in Honolulu, and for them to travel to each county to retrieve such information would be overly burdensome.

The transfer of the tax map function would also involve the development of new departments in the counties to handle the chore. These large departments would be a major, unnecessary expense to the counties.

As such, section 246-9, Hawaii Revised Statutes, was amended to direct the director of taxation to retain the function of preparing and providing tax maps.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 25, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 25, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 361 Judiciary on S.B. No. 31

The purpose of this bill is to implement article IX, section 3 of the Constitution of the State of Hawaii pertaining to public assistance payments.

This bill substitutes the terminology "financial assistance" for that of "money payments" where applicable in chapter 346 (Department of Social Services and Housing), to implement recent changes in the Constitution.

Your Committee finds that the change in terminology does not affect the substance of the amended provisions, but clarifies the type of assistance provided by the State for persons who qualify for such services.

Your Committee on Judiciary is in accord with the intent and purposes of S.B. No. 31, 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. 362 Judiciary on S.B. No. 169

Your Committee agrees with the purpose of S.B. No. 169, which is to transfer the administration of the intake service centers from the office of the governor to the department of social services and housing. This was done to enable the centers to function more effectively and efficiently.

S.B. No. 169 was amended to mandate each center to be directed and managed by a director. The overall director of the intake service centers may now be the director of the Oahu Intake Service Center, as appointed by the director of social services.

The duties of the intake service center, as set forth in section three of the bill was also amended to limit pre-sentence investigation duties for the courts to persons admitted to the intake service center or community correctional center (ISC/CCC). There was a feeling in your committee that the duties of the intake service center were duplicating those done by the probation division, and this amendment would clarify the situation by distinguishing those that are admitted from those that are not. The probation division would do pre-sentence investigation for those not admitted.

A new section was added to S.B. No. 169, which would allow Intake Service Center workers the same powers and duties of probation officers, so they may further perform the duties as set forth above.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 169, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 169, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 363 Judiciary on S.B. No. 1287

The purpose of this bill is to allow taxpayers to contribute one dollar of their state tax liability to the political party of their choice. The taxpayer who wishes to contribute

one dollar to a political party will be able to write in the name of the party chosen to receive the donation. The dollar donation shall not constitute an additional tax for the taxpayer.

Your Committee has amended S.B. No. 1287 to include a definition of "political party." The term political party has been defined according to present law under section 11-61.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1287, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1287, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 364 Human Resources on S.B. No. 773

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii \$150,000 to enable the Department of Social Services and Housing to increase current levels of payments to adult and boarding home operators under the Federal Supplemental Security Income program.

Your Committee finds that approximately 1,500 SSI recipients are currently being cared for in these homes within any given month. These individuals fall within three categories: (1) the mentally ill or recovering mentally ill, (2) the physically handicapped, or (3) the mentally retarded. Act 107, SLH 1978 (Adult Family Boarding Homes and Care Homes; Licensing and Regulation) provided that care and boarding home operators be licensed and trained in first aid, cardiopulmonary resuscitation and nutrition; however, these operators are not currently being equitably compensated for the additional upgrading requirements.

This bill appropriates necessary funds for FY 79-80 to insure that these care and boarding home operators be equitably compensated for the wide range of services to those who are in need of such services in our State.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 773 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. 365 Intergovernmental Relations on S.B. No. 708

The purpose of this bill is to provide the county Central Coordinating Agencies with a basis for exploring and implementing such streamlining mechanisms as concurrent processing and joint hearings by amending Section 46-18 and 46-4.2 Hawaii Revised Statutes. A brief summary of these amendments is as follows:

1. The required feasibility study of a master application form has been expanded to include all types of land development applications. This is for flexibility.
2. The CCA would be required to encourage and coordinate concurrent processing of land development projects when more than one permit is involved. By concurrent processing, we mean simultaneous agency review before the project reaches the hearing stage.
3. The CCA would be required to develop a joint hearings procedure. This would be a formalized method by which an applicant can request joint hearings when more than one is required for a project. Joint hearings are particularly desirable and important to our streamlining efforts.
4. The CCA would be required to advise decision-makers on any new land use laws or any amendments to existing laws. This is to ensure a "meshing" of laws in timing and processing requirements.
5. The final amendment states that other agencies shall cooperate with the CCA in encouraging concurrent projects and joint hearings.

Section 46-4.2 is amended to require counties to process "nonsignificant" zoning changes administratively, based on criteria which they themselves determine.

The amendment to Section 46-4.2 will ensure that counties implement this provision of the law and at the same time give them flexibility for establishing their own criteria for doing so.

Testimony was received from the Department of Land Utilization, City and County of Honolulu

favoring passage of this bill.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.B. No. 708 and recommends that it pass Second Reading and be referred to the Committee on Economic Development.

Signed by all members of the Committee except Senators George and Yee.

SCRep. 366 (Majority) Education on S.B. Nos. 248, 252, 530, 559, 927, 928, 1209, 1301, 1401, 1450, 1475, 1478, 1490, 1662, 1664, 1699, 1798, and 1799

The purpose of these bills is to provide funds for various programs and projects relating to history, culture, and the arts.

Your Committee on Education is in accord with the intent and purpose of S.B. Nos. 248, 252, 530, 559, 927, 928, 1209, 1301, 1401, 1450, 1475, 1478, 1490, 1662, 1664, 1699, 1798 and 1799 and recommends that these bills pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.
Senator Kawasaki did not concur.

SCRep. 367 Education on S.B. No. 28

The purpose of this bill is to implement Article X of the State of Hawaii as amended by the Hawaii Constitutional Convention of 1978 and pertaining to the power of the Board of Education.

Testimony of the Board of Education expressed agreement with this bill which would allow the Board of Education to make policies and exercise control over the public school system as provided by law, and gives jurisdiction over the internal organization and management of the public school system to the elected Board of Education.

Your Committee amended the bill by deleting "to be known as the department of education which shall be headed by an elected executive board", lines 12 and 13, as these words were found repeated in the paragraph.

Your Committee further amended the bill by restoring the statutory language: "The superintendent shall be appointed and may be removed by a majority vote of the members of the board."

Your Committee on Education 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 Judiciary.

Signed by all members of the Committee except Senator Anderson.

SCRep. 368 Education on S.B. No. 235

The purpose of this bill is to permit any individual who files a state individual income tax return for any taxable year to designate an amount as a voluntary contribution to the Hawaii Foundation on Culture and the Arts and remit the designated amount of the contribution at the same time as the payment for any income tax liability is remitted.

The State Foundation on Culture and the Arts, the Honolulu Academy of Arts, the Music Department of the University of Hawaii, the Theatre for Youth, and the Hawaii State Theatre Council submitted testimony in favor of this bill which would provide the citizens of the state a means of supporting and advancing the arts in Hawaii.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 235 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. 369 Education on S.B. No. 542

The purpose of this bill is to appropriate funds out of the general revenues of the State of Hawaii for school level clerical positions in the Department of Education.

The DOE submitted testimony that the clerical services requested are essential in

all the schools' operations and will do much to help schools cope with the increasing clerical workload.

Your Committee amended the bill to appropriate \$414,700 to fund 50 clerical positions in the DOE.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 542, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 542, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 370 Education on S.B. No. 563

The purpose of this bill is to appropriate funds to improve the transportation services for the handicapped students of public schools who are qualified or otherwise determined by the department of education to be eligible for the private sector program only.

Your Committee amended the bill to provide an appropriation of \$458,00 for the biennium 1979-81 for the 49 regular session and 25 summer session bus aides.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 563, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 563, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 371 Education on S.B. No. 714

The purpose of this bill is to authorize the Board of Education to establish a statewide qualifying examination for students seeking a high school certificate of graduation by amending Chapter 298 of the Hawaii Revised Statutes. By establishing this Act, students will be better prepared for life as effective and productive citizens of Hawaii.

It is further intended that this Act will restore meaning to the high school diploma and to ensure assistance to those students whose needs are greatest. It is also intended to reestablish public confidence in the public schools.

The Hawaii State Teachers' Association submitted testimony in favor of the bill. A survey of high school student leaders showed that 85% favored a test for high school graduation.

A survey of public opinion in the State of Hawaii, showed that a competency test in reading and writing for high school graduation was the first priority on a list that included 59 items.

The Department of Education is already geared up to give the test in 1983.

Your Committee amended the bill to mandate remediation for students who do not pass the test at whatever stage it is given. The bill was further amended to include the Department of Education's "other life skills" as part of the minimum competencies specified for graduation.

The Committee further amended the bill so that the effective date is 1983.

The Committee on Education is in accord with the intent and purpose of S.B. No. 714, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 714, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, Kawasaki, Ajifu and Anderson.

SCRep. 372 Education on S.B. No. 930

The purpose of this bill is to provide trained school bus aides to provide safe transportation services for the developmentally disabled and autistic children of the public schools and to appropriate such funds necessary to carry out the purpose of this Act. This bill also establishes a school bus advisory panel to advise the Board of Education on rules and training relating to the school bus aides.

The Department of Education supported the need to provide aides for the special education students to transport students safely, but did not feel that every school bus transporting

handicapped students needed the aides. Testimony strongly supporting the passage of this bill was received by the parents of children requiring special transportation services.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 930 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. 373 Education on S.B. No. 1059

The purpose of this bill is to transfer the television program, Pau Hana Years, from the Department of Education to the Hawaii Public Broadcasting Authority.

Both the Department of Education and Hawaii Public Broadcasting Authority agree that this program belongs with the Hawaii Public Broadcasting Authority. However, it is important that not only real property, personal property, and personnel be transferred, but that operating funds for this program be transferred as well. Once the personnel and program are transferred, it is understood that the program and personnel so transferred will be under the control of the Hawaii Public Broadcasting Authority, and subject to the same management, budgetary, and evaluation practices and procedures as all other programs and personnel, under the Authority.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1059 and recommends that it pass Second Reading and be referred to the Committee on Government Operations and Efficiency.

Signed by all members of the Committee except Senator Anderson.

SCRep. 374 (Majority) Education on S.B. No. 1501

The purpose of this bill is to establish a regularized special needs fund for each school. The Act also defines how each school shall decide how such special funds will be expended.

Equal educational opportunity is one of the most important mandates of our state. Providing special needs funds to schools is one way to make this tenet a reality. By making special needs funds available, public schools could respond to deficiencies within the basic framework of statewide requirements and curricula.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1501 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.
Senator Kawasaki did not concur.

SCRep. 375 (Majority) Education on S.B. No. 1666

The purpose of this bill is to provide the BOE its own research and professional support staff, independent of the Superintendent of Education and his administrative staff and to provide the Board the authority to appoint its civil service secretarial or clerical employees.

Testimony provided by the BOE strongly supported this bill as this will provide the Board with an impartial and complete staff support services. The Board of Education recommended the word "solely" be added to mean that an independent Board staff will no longer rely on the Superintendent's administrative staff for professional and technical services and will enable such administrative staff to devote much more time to their assigned duties.

The Board further suggested that the phrase "and shall follow as closely as possible the recommendations of the department" appearing on lines 3 and 4 on page 3 be deleted to provide the Board the autonomy to determine its hiring or contracting powers as provided in this bill.

Your Committee amended the bill accordingly.

Your Committee, recognizing the needs of the Board, further amended the bill to provide that a sum of \$50,000.00 be appropriated out of the general revenues of the State of Hawaii to carry out the purposes of this Act, on a contractual basis for the first year.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1666, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1666, S.D. 1 and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.
Senator Kawasaki did not concur.

SCRep. 376 Education on S.B. No. 1721

The purpose of this bill is to create a committee to be known as the "Hawaii Statehood Celebration Committee" which shall have charge of all arrangements for the commemoration of the twentieth birthday of the State of Hawaii on August 17, 1979.

Testimony submitted by the Department of Budget and Finance, indicated that the bill will provide the mechanism for the planning and directing of an official celebration of the twentieth anniversary of Hawaii's admission to the Union.

Your Committee amended the bill to appropriate \$25,000 towards establishing the Committee.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1721, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1721, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 377 (Majority) Education on S.B. Nos. 246, 261, 262, 263, 379, 380, 383, 389, 425, 426, 427, 428, 464, 465, 499, 515, 558, 576, 577, 579, 637, 644, 770, 771, 796, 797, 798, 799, 800, 801, 802, 804, 805, 806, 807, 808, 809, 818, 819, 822, 823, 824, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 875, 1201, 1266, 1308, 1310, 1373, 1384, 1443, 1473, 1495, 1500, 1667, 1668, 1687, 1693 and 1823

The purpose of these bills is to provide funds for various educational programs, library and other construction projects related to the schools in the state.

Your Committee on Education is in accord with the intent and purpose of S.B. Nos. 246, 261, 262, 263, 379, 380, 383, 389, 425, 426, 427, 428, 464, 465, 499, 515, 558, 576, 577, 579, 637, 644, 770, 771, 796, 797, 798, 799, 800, 801, 802, 804, 805, 806, 807, 808, 809, 818, 819, 822, 823, 824, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 875, 1201, 1266, 1308, 1310, 1373, 1384, 1443, 1473, 1495, 1500, 1667, 1668, 1687, 1693 and 1823, and recommends that these bills pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.
Senator Kawasaki did not concur.

SCRep. 378 Health on S.B. No. 122

The purpose of this bill is to amend Chapters 321 and 346, Hawaii Revised Statutes, by adding new sections relating to the inclusion of domiciliary care to handicapped persons under Titles XIX and XX, Federal Social Security Amendment of 1974.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 122 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 Takitani, Saiki and Yee.

SCRep. 379 Human Resources on S.B. No. 751

The purpose of this bill is to amend Chapter 392, the Temporary Disability Insurance law by adding a new section to allow payment of temporary disability benefits to government employees who have not earned the minimum favorable benefits, provided by the Temporary Disability Law.

Your Committee finds that it is the intent of the Temporary Disability Insurance Law to ensure that the workers of Hawaii are afforded a minimum level of protection against wage loss due to non-occupational injury or illness. This insurance, which is to be paid by the insurer, must meet the standards set forth in Chapter 392, or meet the minimum favorable benefits equivalent to those standards as determined by the insurance commissioner.

Your Committee finds further that currently there are public employees of the State and its political subdivisions who are not eligible for benefits equivalent to the minimum favorable benefits established by the insurance commissioner, which is three weeks at full pay from the first day of disability.

Act 200, SLH 1978, required that all collective bargaining agreements provide temporary disability benefits equivalent to or at least as favorable as the benefits required by Chapter 392. However, employees not covered by the collective bargaining contracts are not protected by Act 200. Merit system employees who have recently entered the system, and have not built up sufficient reserves of sick leave, do not receive the minimum favorable benefits as established by our Temporary Disability Insurance Law.

Under this measure, the employee who has not earned at least three weeks of sick leave during a year would receive benefits up to three weeks of full pay after first exhausting all earned sick leave benefits.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 751 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. 380 Human Resources on S.B. No. 1738

The purpose of this bill is to amend the Discriminatory Practices portion of the Employment Practices law by clarifying and supplementing various sections in order to provide the general public with a statute and procedures that are easy to comprehend and more compatible with the federal Civil Rights Act and the Equal Employment Opportunities Commission's national charge processing system.

Your Committee finds that some of the revisions include exemption for domestic service in the home of any person; authority for the department to initiate complaints and file class action complaints; delineation of investigational and enforcement authority; setting of a three year statute of limitation on civil action; and a provision for the confidentiality of information.

Your Committee notes that the State is required to align its discriminatory practices statutes with the federal Civil Rights Act, and the EEOC national charge processing system in order to continue to receive certain federal funds which support the activities of the State's employment practices office.

Your Committee has amended this bill to delete the phrase, "but shall not include the State or any political subdivision thereof or the United States", from the definition of "Employer". The reason for this amendment is that the exclusion of public employees in the State Discriminatory Practices Law runs contrary to the intent of recent federal civil rights legislation.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1738, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1738, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 381 (Joint) Intergovernmental Relations and Government Operations and Efficiency on S.B. No. 670

The purpose of this bill is to permit an exemption, by the Governor or Mayor, from the mandate of present law requiring public hearings on the adoption, amendment or repeal of rules when such rules are required by the federal government as a condition of federal funding. The bill requires that a statement of the substance of the proposed rule be published in a newspaper of general circulation in the State prior to the exemption by the Governor or Mayor.

Testimony submitted by Andrew Chang, Director of Social Services and Housing, supported S.B. No. 670, indicating that the purpose of a public hearing is not served where rules mandated by the federal government are concerned because rule adoption, amendment or repeal is not subject to change as a result of the hearing.

Your Committees on Intergovernmental Relations and Government Operations and Efficiency are in accord with the intent and purpose of S.B. No. 670 and recommend that it pass Second Reading and be referred to the Committee on Judiciary for further consideration.

Signed by all members of the Committees except Senators George, Yee and Ajifu.

SCRep. 382 Human Resources on S.B. No. 286

The purpose of this bill is to prohibit public employees from engaging in outside work at wage rates less than those prevailing for such employment as determined by the Director of the Department of Labor and Industrial Relations.

Your Committee finds that there is an inequity in the current labor situation. Some public employees working at a second job have been undercutting prevailing wages by working for less than the rates received by workers who depend on those jobs as their primary source of income. Public employees having union representation and job security, are assured of a relatively stable source of primary income, which places other workers at a disadvantage when competing for the same jobs because such public employees need only seek "extra" income while the other workers are seeking primary employment.

Your Committee intends to create a situation wherein the public employee and the outside worker are at more equitable levels of competition when both are seeking employment in the private sector.

Amendments have been made to this bill to designate prevailing wages as those found with the firm of the outside employer. The language originally proposed, which would have the prevailing wages determined by the director of the department of labor and industrial relations, would require the department to establish prevailing wage rates for many types of work not currently examined by the department. It also would create an economic situation which would place public workers seeking outside employment at a disadvantage when competing with outside workers due to the method by which the department establishes prevailing wage levels, usually the median or a mode of 30 per cent or more of the wages paid by the entire industry in question.

Your Committee has also made technical amendments not dealing with the substance of the bill, to bring the bill into conformance with Act 80, SLH 1978.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 286, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 286, S.D. 1, and be referred to the Committee on the Judiciary.

Signed by all members of the Committee.

SCRep. 383 Human Resources on S.B. No. 434

The purpose of this bill is to grant classified employees leaves of absence to work in exempt positions and, upon termination of such leave, to be reinstated to their former positions, if vacant (otherwise to comparable positions), without loss of rights and benefits and at a rate of compensation to which they would have been entitled had they not taken such leave. Such leaves may not exceed two years, provided that upon request of the Governor, mayor, Chief Justice, or head of an independent board or commission, the leaves of absences may be extended for another period not to exceed two years.

Your Committee finds that employees in the classified service may be reluctant to take such leaves of absence due to attendant loss of rights and benefits pertaining to the classified service. This bill provides for return rights for these employees without such loss.

Your Committee also finds that existing provisions in the statutes, rules and regulations, and collective bargaining contracts permit similar leaves of absence to other governments, to the state legislature, to union service, etc. This bill is a logical extension of this concept to permit the chief executives, and others, access to the same resources.

Your Committee further finds that this bill allows the utilization of specialized talent in positions where it can be most effective for the public good and provides for a larger pool of qualified employees from which to choose participants.

Your Committee in its deliberation felt that this bill's inclusion of all employees in classified service is too broad. This may result in an inordinate amount of requests for such leaves of absence involving too many employees. Therefore, your Committee has amended this bill to: (1) restrict such requests for leaves of absence to the Governor and the mayors of the respective counties; (2) limit the positions to department heads, first deputies or first assistants, and their secretaries; and, (3) extend these leave periods to four years, with an allowable extension of four years, in order to be consistent with the terms of office of the Governor and the mayors. Your Committee has also made technical amendments to this bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B.

No. 434, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 434, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 384 Human Resources on S.B. No. 583

The purpose of this bill is to exempt from the general excise tax those amounts paid by life-time tenants living in a multi-unit residential building used for retirement purposes, as their proportionate share of the common expenses of maintenance and operation of such multi-unit building.

Your Committee finds that elderly persons residing in Hawaii often live on a fixed income that is slowly diminished in real buying power by inflation. Such people often buy into a multi-unit residential facility for the elderly through a life-time lease agreement, with maintenance and operational expenses to be paid on a proportional, on-going basis by the residents.

These maintenance and operation costs are currently subject to general excise tax payments of 4 per cent, and when combined with the inflationary trend of such costs, add up to a significant burden on the elderly living in those facilities.

Your Committee further finds that some measure of relief should be accorded the elderly living in these types of multi-unit residential facilities, and this relief should be in the form of lifting the general excise tax from expenses paid by such elderly persons for custodial, janitorial, and yard maintenance services. This bill has been amended to reflect these specific services in place of the phrase "common expenses of maintenance and operation of the multi-unit building", which is deemed by your Committee to be too broad in scope to meet its intent.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 583, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 583, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 385 Human Resources on S.B. No. 754

The purpose of this bill is to allow an elective officer or judge to terminate membership in the State employees retirement system when the member's allowance reaches 75 per cent of his average final compensation; to allow those elected officers or judges who have chosen to retire under the provisions of Section 88-61 (Termination of Membership) of the State's Pension and Retirement Systems Law to be reinstated in the system upon application thereto; and, to eliminate the provision that no judge shall serve after age 65 who chooses to terminate membership under this Chapter.

Your Committee finds that current law provides for termination of membership if an elective officer or judge gives notice within six months after the date when his allowance reaches 75 per cent of his average final compensation; this bill would delete this six month time limit.

Your Committee also finds that this bill would provide an opportunity for any person who has terminated his membership in the system under the provisions of Section 88-61, and who is still in active service to be reinstated in the system upon application to the system.

Your Committee further finds that current law prohibits a judge from serving after age 65 if he chooses to terminate membership under the provisions of this Chapter. This bill will conform the statutes to reflect recent court rulings against mandatory retirement based upon age.

Your Committee has made technical amendments to this bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 754, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 754, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 386 Human Resources on S.B. No. 1158

The purpose of this bill is to increase the post retirement allowance from a 2.5 per cent to a 5 per cent benefit, effective after June 30, 1979.

The post retirement benefit was pioneered by Hawaii and was first payable on July 1, 1961. This benefit was designed to offset the rising cost of living which, in the decade prior to 1961, had been rising at the rate of 1.5 per cent per year. Hence, at the outset, the post retirement allowance was 1.5 per cent of the pensioner's basic pension, annuity, or retirement allowance payable on July 1 of each year following the year of retirement. The post retirement allowance was increased to 2.5 per cent on July 1, 1970, in recognition of the fact that the cost of living was increasing at a much greater rate than 1.5 per cent. To finance this increased benefit, the member's contribution to the post retirement fund was increased from .5 per cent to 1.5 per cent and the employer's contribution from .5 per cent to 2.5 per cent.

Your Committee finds that the cost of living is again increasing at a greater rate. Many government retirees now find it difficult to keep up with these cost of living increases. This bill will increase their post retirement allowances by 2.5 per cent, thereby partially offsetting the rising cost of living.

Your Committee further finds that actuarial estimates, based on the 1978 payroll, indicate that the cost to the post retirement fund would increase by some \$32 million per year, to be paid by employers, if S.B. No. 1158 is enacted in its present form. Your Committee, however, is cognizant of the financial constraints now upon the State. This is particularly acute in this year when the implementation of Constitutional Convention amendments, the financing of collective bargaining contracts, and inflationary costs all require State funds. However, your Committee is recommending passage of this bill on to the Committee on Ways and Means because the subject matter covered by this bill should be given proper consideration and action if surplus funds become available.

After due consideration, your Committee has amended this bill to: (1) provide for a post retirement allowance equivalent to 3.5 per cent of the pensioner's basic allowance payable after June 30, 1979, for a net post retirement benefit increase of 1 per cent; and, (2) delete Section 2 of this bill because current law requires that any increase in post retirement allowance shall be financed through an increase in employer contributions; these employer contributions are actuarially determined, as mandated by Section 88-115 (pertaining to the Post Retirement Fund), as amended.

Your Committee has also made technical amendments to this bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1158, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1158, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 387 Human Resources on S.B. No. 1329

The purpose of this bill is to: (1) to conform current vocational rehabilitation statutes with the federal vocational rehabilitation law; and (2) permit the department of social services and housing to administer the program within funding ceilings established by appropriations, federal allocations, grants, and funds available from other sources.

Your Committee finds that the state laws relating to vocational rehabilitation have not been updated since their enactment in 1955; however, the federal law has been amended in recent years. Statutory changes must be made in order to continue the State's eligibility for federal funds which are currently matched on a 20 per cent state and 80 per cent federal basis.

Your Committee further finds that present vocational rehabilitation statutes have resulted in suits against DSSH. Such suits, if upheld, will require the department to provide maintenance to any client upon request.

This bill provides for continued state eligibility for federal funds by conforming present statutes to the federal law. This bill further provides that DSSH may administer the program according to such funds as stated under section 348-1 (State vocational rehabilitation; policy and scope).

Your Committee has amended this bill as follows:

(1) On page 1, language has been added to section 348-1 to allow the department to recognize limitations in resources in providing vocational rehabilitation services.

(2) In section 348-2, the word "person" is changed to "individual" because all other references are to the "individual".

(3) On pages 10 and 11, there are revisions that add two new subsections (c) and (d) to section 348-3, which were transferred from section 348-4(b) and (c). The transferred subsections are now functions of the department (section 348-3) since the scope and financing of the program (section 348-4) are now part of section 348-1, as revised. The entire section 348-4 is eliminated.

These changes are essentially a rearrangement of the three sections for the purpose of maintaining fiscal integrity and to assure that the program will not be diminished through administrative action.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1329, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1329, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 388 (Joint) Human Resources and Judiciary on S.B. No. 618

The purpose of this bill is to allow the attorney general, in addition to the public prosecutor or county attorney, to prosecute all criminal actions in violation of the Hawaii Employment Security Law, its rules and regulations.

Your Committees find that several sections of the Hawaii Employment Security Law provide for penalties such as fines and imprisonments for criminal actions in violation of the law and its regulations by claimants, employers, or employees or members of the department of labor and industrial relations.

At present, such penalties are imposed through prosecution by the public prosecutor or county attorney of the political subdivision in which the employer has a place of business or the violator resides. Prosecution under this system has generally been successful, but it has also received low priority for prosecution, which in turn has limited the scope and timeliness of such actions. Allowing a deputy attorney general to be responsible for handling employment security law prosecutions would aid in ensuring that violations would receive proper attention.

Your Committees have made technical, nonsubstantive amendments to this bill to bring it in conformance with the requirements of Act 80, Session Laws of Hawaii 1978, dealing with the form of legislation amending the Hawaii Revised Statutes.

Your Committees on Human Resources and Judiciary are in accord with the intent and purpose of S.B. No. 618, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 618, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Yamasaki, Anderson, Kuroda, Ushijima, George and Saiki.

SCRep. 389 Transportation on S.B. No. 868

The purpose of this bill is to amend the Hawaii Revised Statutes to deal with the problems of general aviation.

Your Committee is aware of the heavy mixed air traffic at the international airport on Oahu and believes that a general aviation airport which is safe, convenient and economical, is necessary to reduce the danger of collisions and subsequent loss of life and property.

Your Committee has amended the purpose of the bill by providing a more specific approach to deal with the problems of general aviation. In short, the amended purpose calls for the establishment of a temporary general aviation airport site selection commission which would make the final site selection based on as wide a community, industry and governmental input as possible.

The bill as amended spells out guidelines for the commission's decisions and also provides

that the site decision shall be final and unappealable. The bill also sets out the duties of the department of transportation following the decision of the commission.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 868, as amended herein and recommends that it pass First Reading by title, in the amended form attached hereto, be printed and be recommitted to the Committee on Transportation for further consideration.

Signed by all members of the Committee except Senator George.

SCRep. 390 Education on S.B. No. 1322

The purpose of this bill is to amend the Hawaii Revised Statutes, Section 298-26 to impose penalties on unauthorized vehicles parked on public library grounds.

Your Committee feels that there will be a problem of enforcement and therefore recommends that after one year that this Act has been in operation, a report to the legislature be made indicating how the libraries have solved the problem of enforcement.

The fine of \$500 provided by the bill seems excessive and your Committee amended the bill to retain the present fine of \$50.00 applicable to unauthorized vehicles parked on school grounds.

Your Committee on Education is in accord with the intent and purpose of S.B. 1322 as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1322, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Anderson.

SCRep. 391 Transportation on S.B. No. 870

The purpose of this bill is to amend the Hawaii Revised Statutes to deal with the problems and programs relating to inter-island transportation system.

Your Committee was briefed on the Task Force Report on Inter-island Surface Transportation. This report was quite critical of methods utilized by the common carrier which now holds the certificate of public convenience and necessity to evade its responsibilities and to take advantage of deficiencies in the Water Carrier Act. Your Committee heard testimony from the deputy director of regulatory agencies and the chairman of the public utilities commission on the functioning of Hawaii Water Carrier Act, Chapter 271G.

Your Committee finds that the Water Carrier Act should be improved in order to protect the interests of the public and accordingly has made several amendments.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 870, as amended herein, and recommends that it pass First Reading by title, in the amended form attached hereto as S.B. No. 879, S.D. 1, be printed and be recommitted to the Committee on Transportation for further consideration.

Signed by all members of the Committee.

SCRep. 392 Judiciary on S.B. No. 26

The purpose of this bill is to implement article VIII, section 5 of the Constitution of the State of Hawaii as amended by the Constitutional Convention of 1978 pertaining to state mandates.

Under this bill the State is required to share in the cost incurred by the counties for any increase in services brought about by a program which was mandated by the legislature.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 26, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 26, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 393 Judiciary on S.B. No. 137

The purpose of this bill is to implement Article VII, Section 12 of the Constitution of the State of Hawaii as amended by the Constitutional Convention of 1978 and pertaining to the issuance of special purpose revenue bonds.

This bill enables the counties of the State to authorize the issuance of special purpose revenue bonds to nonprofit corporations which provide health care facilities for the general public.

Your Committee has amended S.B. No. 137, S.D. 1, by making technical changes to the structure of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 137 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. 137, S.D. 2.

Signed by all members of the Committee.

SCRep. 394 Judiciary on S.B. No. 151

The purpose of this Act is to conform the Hawaii Revised Statutes to the Hawaii State Constitution effected by the Constitutional Convention of 1978 and pertaining to the Hawaiian Education Program.

Your Committee has reviewed the work done by the Committee on Education and the Committee on Housing and Hawaiian Homes jointly by way of S.B. No. 151, S.D. 1.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 151, 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. 395 Judiciary on S.B. No. 295

The purpose of this bill is to implement Article VII, Section 12 of the Constitution of the State of Hawaii as amended by the Constitutional Convention of 1978 and pertaining to the issuance of special purpose revenue bonds.

This bill enables the State to authorize the issuance of special purpose revenue bonds to nonprofit corporations which provide health care facilities for the general public.

Your Committee has amended S.B. No. 295, S.D. 1, by making technical changes to the structure of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 295, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 295, S.D. 2, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 396 Judiciary on S.B. No. 152

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978 and which pertain to the establishment of the Office of Hawaiian Affairs.

1. The Constitutional Mandate. The key to understanding the Constitutional mandate imposed upon the legislature by the voters in their adoption of Constitutional amendments at the general election of 1978 pertaining to Hawaiian affairs lies in the language of article XII, section 4, which reads as follows:

"PUBLIC TRUST

Section 4. The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7 of the State Constitution, excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended, shall be held by the State as a public trust for native Hawaiians and the general public."

This seemingly cryptic language is deciphered as follows:

A. The Hawaiian Homes Commission Act, 1920, in pertinent part, governs that certain categories of lands there defined as "available lands" which are encumbered with a trust for the betterment of "native Hawaiians". Under that act, "native Hawaiians"

means those persons who are "descendant[s] of not less than one-half part of the blood of races inhabiting the Hawaiian islands previous to 1778."

B. Admission Act. When Hawaii was admitted into the Union, the Admission Act, among other things, (1) required that the Hawaiian Homes Commission Act be "adopted as a provision of the Constitution" of the State of Hawaii; (2) granted to Hawaii "title to all the public lands and other public property, and to all lands defined as 'available lands' by . . . the Hawaiian Homes Commission Act;" and (3) required that all "such lands and the income therefrom, shall be held by said State as a public trust for the following five purposes:

- (1) Support of the public schools and other public educational institutions;
- (2) Betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended;
- (3) The development of farm and home ownership on as widespread as basis as possible;
- (4) The making of public improvements; and
- (5) The provision of land for public use.

C. Interpretation of the Public Trust. Your Committee notes that there were at least two ways of interpreting the "public trust" required by the Admission Act. The first is that such public trust is fulfilled with respect to the "betterment of the conditions of native Hawaiians" by virtue of the "available lands" of the Hawaiian Homes Commission Act being held and used in the interest of "native Hawaiians" as there provided. By such interpretation, all of the income from public lands transferred to Hawaii other than "available lands" could be utilized without a portion thereof being used specifically for native Hawaiians. Apparently, this is the interpretation that has been followed, as such income has by and large flowed to the department of education.

The other interpretation is that part of the income from public lands other than "available lands" was intended for the "betterment of the conditions of native Hawaiians" in addition to the "available lands" and their income benefiting native Hawaiians under the Hawaiian Homes Commission Act. By this interpretation, native Hawaiians have not received direct beneficial interest from the public lands (other than "available lands") as had been intended by the Admission Act.

D. Constitutional Amendments 1978. The delegates to the Constitutional Convention of 1978 were addressing themselves to this historical set of circumstances when they proposed the amendments pertaining to Hawaiian affairs. They adopted the latter interpretation of the Admission Act by article XII, section 4 and mandated that the "lands granted to the State of Hawaii by . . . the Admission Act . . . excluding . . . 'available lands' . . . shall be held by the State as a public trust for native Hawaiians and the general public."

The voters at the general election of 1978 also ratified article XII, sections 5 and 6, and by doing so, mandated the legislature to enact laws which:

- (1) give statutory existence to the Office of Hawaiian Affairs which is to function as a public trust "for native Hawaiians and Hawaiians;"
- (2) allocate a certain "pro rata" part of the income and proceeds from the lands granted to the State by the Admission Act (excluding "available lands"), to be managed and administered by the Office of Hawaiian Affairs;
- (3) define the term "Hawaiian;" and
- (4) enable the election of at least nine persons to the board of trustees of the Office of Hawaiian Affairs from among Hawaiians and to be elected by Hawaiians.

2. Standing Committee Report No. 64. Your Committee was referred S.B. No. 152, S.D. 1 from the Committee on Housing and Hawaiian Homes. In its original form, S.B. No. 152 was a short form bill into which the contents of another bill, S.B. No. 1458, has been added to create S.B. No. 152, S.D. 1.

We have given serious review to S.B. No. 152, S.D. 1 and, upon analysis, find it necessary to agree with the Committee on Housing and Hawaiian Homes that S.B. No. 152, S.D. 1 is attended with very serious legal questions in its form and content.

However, it is obvious that much hard work had gone into the drafting of S.B. No. 1458 and S.B. No. 1525, S.D. 1, and there are many commendable features to that bill which should be retained.

Your Committee is very seriously concerned that if the legislature is required to halt further action on this bill pending the attorney general's opinion requested by the Committee on Housing and Hawaiian Homes, that the Office of Hawaiian Affairs would not be established "on or before the first general election following ratification," as mandated by article XVIII, section 8. In that sense, your Committee is faced with a dilemma: do we defer to the action and wishes of the Committee on Housing and Hawaiian Homes and allow S.B. No. 152, S.D. 1 to possibly await implementation at a later legislative session; or do we take on the task of answering its recognized problems and fulfill the Constitutional mandate? Your Committee has embarked on the latter course.

3. Definition of "Hawaiian". The Constitutional Convention of 1978 proposed the following as article XII, section 7 respecting definition of the terms "Hawaiian" and "native Hawaiian":

"DEFINITION: HAWAIIAN; NATIVE HAWAIIAN

Section 7. The term "Hawaiian" means any descendant of the races inhabiting the Hawaiian Islands previous to 1778.

The term "native Hawaiian" means any descendant of not less than one-half part of the blood of races inhabiting the Hawaiian Islands previous to 1778 as defined by the Hawaiian Homes Commission Act, 1920, as amended or may be amended."

However, the Hawaii Supreme Court in Kahalekai v. Doi, Haw. ___ (1978) ruled that "[t]his proposed amendment to the present Article XI (New Article XII) was not properly presented to the public for its consideration under Question No. 28 (Office of Hawaiian Affairs) and was, therefore, not validly ratified."

As such, the definition of "Hawaiian" included in proposed amendment, article XII, section 7 is not mandatory upon the legislature simply because it has no Constitutional existence. Nonetheless, the distinction between "native Hawaiian" and "Hawaiian" is also found in article XII, section 5. As that section was found to have been properly ratified in Kahalekai v. Doi, supra, its proposed implementation requires statutory definition for the term "Hawaiian".

The definitions of "native Hawaiian" and "Hawaiian" found in S.B. No. 152, S.D. 1 are taken verbatim from proposed amendment, article XII, section 7, with the addition of the proviso that they "shall refer to the class of people of Hawaii whose aboriginal ancestors were born here and whose descendants thereafter have continued to reside in Hawaii."

Your Committee has amended S.B. No. 152, S.D. 1 to restore the definition found verbatim in the Hawaiian Homes Commission Act. To do this we deleted the proviso. This is necessary in order to obviate any problems that may arise by deviating from the language contained in that bill.

Again, apart from the additional proviso, the definition of "Hawaiian" found in S.B. No. 152, S.D. 1 is taken from proposed amendment, article XII, section 7. This definition is problematic for the reason that there were cross-migrations of people between Hawaii and the South Pacific island groups previous to 1778, so that persons of those island groups may conceivably have a basis to claim having "descended from races inhabiting the Hawaiian Islands previous to 1778." In that connection, it is also conceivable that persons descended from any race which may have been shipwrecked on Hawaii before 1778 could similarly claim that distinction.

Apparently, the language of the additional proviso is an attempt to resolve these "cross-migration" and "shipwrecked sailor" problems. However, the language, "whose descendants thereafter have continued to reside in Hawaii" is susceptible to the interpretation that such descendants must have continued to reside in Hawaii from 1778 until today in an unbroken chain.

In the recent past, Hawaii has exported talent to the mainland -- witness our teaching and engineering graduates from the University of Hawaii, among others. This is because Hawaii's economy is not sufficiently diverse to absorb our many talented young people -- witness vocations such as marine design, nuclear physics, and electrical engineering, where our young people who desire employment have had to seek residence in other states. Your Committee feels that the descendants of these Hawaiian expatriates should not be deprived of their heritage because the residency of their predecessors in these islands may have been broken by economic circumstances.

Your Committee has amended the definition of "Hawaiian" to correct the weaknesses described above by adding the following to the proposed amendments of Article XII, Section 7 referred to above:

"... this means descendants of the aboriginal races of people which exercised sovereignty and subsisted in the Hawaiian Islands in 1778 and which races continued to reside there."

This definition was first proposed to your Committee by Mr. Abe Piianaia, former chairman of the Hawaiian Homes Commission. Such definition would obviate the "cross-migration" and "shipwrecked sailor" problems. Also, such definition is supported by texts that subscribe to the aboriginal people inhabiting the Hawaiian Islands proximate to 1778 as people with definite governmental order, as primitive as that may have been by modern western standards. Modern scholarship also identified such race of people as culturally distinguishable from other Polynesian peoples. In that regard, present thinking is that the "cross-migration" between Hawaii and the South Pacific island groups must have ceased some 500 years before 1778 to allow the people of Hawaii to evolve as a culturally unique people.

Your Committee understands that the date "1778" was originally used in the Hawaiian Homes Commission Act to define "native Hawaiians" because that is the date of the earliest written account of the aboriginal people of Hawaii. Perhaps, the most authoritative text on ancient Hawaiians is one authored by David Malo, who was thought to have been born around 1793 and "came to be universally regarded as the great authority and repository of Hawaiian lore." See page viii of N. B. Emerson's "Biographical Sketch of David Malo" which prefaces David Malo's Hawaiian Antiquities (Moolelo Hawaii).

David Malo said, "[t]he word 'kalaimoku' related to the civil polity, or government, of the land." He continued:

"There were two strong forces, or parties, in the government. One, the kahuna who attended to the idol worship; the other, the kalaimoku, or king's chief councillor. These two were the ones who controlled the government and led its head, the king, as they thought best. If the head of the government declined to follow their advice, the government went to another, on account of the fault of its head, that is the king. The high priest, kahuna o na kii, controlled the king in matters of religion, haipule (he was keeper of the king's conscience). The kalaimoku, chief councillor or prime minister, guided him in regulating the affairs of administration and in all that related to the common people." See David Malo, Hawaiian Antiquities, page 187-8.

E. S. C. Hardy, in his Ancient Hawaiian Civilization, describes the mass of the people who lived in this civil polity as follows:

"In the old days, the mass of the people were called makaainana. The word is interesting because it refers to the relationship of the people to the land. The makaainana were the people who lived on the land. Aina means land, but it has a deeper meaning because it is derived from the word meaning "to eat." The word actually means the land on which a person is born and from which he gets his living. The makaainana were the common people, the laboring masses, the cultivators of the soil, the fishermen, hunters, and craftsmen." See E. S. C. Hardy, Ancient Hawaiian Civilization, page 35.

Thus, what is obvious and is taught to Hawaiian school children about the ancient Hawaiians does have documentary refinement, Hawaiians being described as a race of people with a definite sovereignty or political order, which order was subscribed by the people who subsisted in these Hawaiian islands.

There is much that is said of theories respecting the unique culture of the ancient Hawaiians. An interesting item found in that regard describes their uniqueness as follows:

"The Hawaiians were the only branch of the Polynesians who built special temples of healing . . . (and) the only Polynesians who specialized in seeking medicinal virtues of plants . . . Thus the Hawaiians had stepped over the border of ignorance and were on the threshold of the scientific investigation of disease." See quotation in Donald D. Mitchell's Resource Units in Hawaiian Culture, pages 192-3.

Finally, modern scholarship describes the governmental order of the Hawaiian people in 1778 as progressing in a certain line of development leading toward eventual centralization, as evidenced by the following quotation:

"In 1778, when Cook entered the scene, the Kingdom had not yet been established, but the course had been set and all the major chiefs were racing toward the same goal. Europeans have been given far too much credit for their part in bringing about a new social

order in Hawaii; they were only the midwives. Without them the new births might have been delayed, but probably not for too long. Even before the newcomers could intervene, Hawaiian chiefs had already seized command of all the large islands and were reaching out for more. Centralization of authority was no special Hawaiian accomplishment -- Tongans, Mangaiaans, Mangarevans, Tahitians had done as much. The Hawaiian chiefs had finally succeeded in replacing substantially the traditional lineages with a tightly controlled administrative organization. All other Stratified societies had brought out fully all the political capabilities of the Traditional order. Hawaii had begun to introduce a new order and to move in a new direction." See Irving Goldman, Ancient Hawaiian Society, page 200.

As a final point regarding the definitions of "Hawaiian" and "native Hawaiian", your Committee realizes the difference in the language used in these definitions. As previously pointed out, the language for "native Hawaiian" must be left unchanged from that appearing in the Hawaiian Homes Commission Act. However, the import of the definition for "Hawaiian" other than the "one-half blood" requirement should be deemed identical in intent to the reference to "native Hawaiian." Simply, the definition proposed by Mr. Abe Piianaia is far more precise and workable, and your Committee adopts what is the best so far derived.

4. Analysis of S.B. No. 152, S.D. 1. Upon analysis, S.B. No. 152, S.D. 1 is structured essentially as follows:

A. The Office of Hawaiian Affairs is to be "established as an independent corporation of the State of Hawaii; "

B. Its purposes are (1) to better the condition of native Hawaiians using the pro rata portion of all funds received via the Admission Act; (2) to better the condition of Hawaiians; and (3) to function as a receptacle for federal reparations.

C. Its trustees are to be elected in a partisan election and to be prohibited from holding any other public office.

D. It is to have an administrator appointed by the majority of the board of trustees for a four-year term and whose appointment is terminable only by two-thirds vote of the board. The administrator's powers and duties are dual, a portion being specifically mandated or authorized by statute and others generally delegated to him by the board.

E. Its trustees are to be compensated (1) \$75 per day for each meeting attended; (2) plus transportation fares between islands; and (3) an additional \$60 per diem for attending meetings on an island other than that in which his board district is located.

F. The administrator's salary is to be "not more than \$32,500 per year" and he is "to be included in any benefit program generally applicable to the officers and employees of the State."

5. Status as Government Agency and Accountability. The Committee on Housing and Hawaiian Homes raised the question whether the Office of Hawaiian Affairs as structured by S.B. No. 152, S.D. 1 is a government agency. Apparently, the question arises from its description as "an independent corporation of the State of Hawaii." The answer to the question does not lie in such characterization however, as any recipient of the lands and income of the public trust created by the Admission Act must be a state governmental agency and must be accountable to the people of Hawaii as such. The applicable language of the Admission Act is that "[t]he lands . . . proceeds . . . and the income therefrom, shall be held by said State as a public trust"

Article XII, section 6 mandates that "the board of trustees shall exercise power -- pertaining to management, formulation of policy, control over property -- as provided by law." As such, the Office of Hawaiian Affairs can only be established as a government agency subject to the laws enacted by the legislature of the State of Hawaii.

In order that there should be no mistake that the Office of Hawaiian Affairs complies with the Constitutional mandate, your Committee has deleted the reference to its establishment "as an independent corporation," and S.B. No. 152 in the form of S.D. 2 has now attached the Office of Hawaiian Affairs "to the office of the governor for administrative purposes only."

Your Committee is aware of the divergence between the actual language of article XII, sections 4, 5 and 6 and the language of Committee of the Whole Report No. 13 and Standing Committee Report No. 59 of the Constitutional Convention. Only the actual language of Constitutional amendments are mandatory upon the legislature, as only the texts of the amendments were placed before the voters for ratification. As such, your Committee

has, consistent with our consideration of all other bills respecting Constitutional amendments, considered all language contained in committee reports of the Constitutional Convention to be advisory only, and not mandatory.

More particularly, we are aware that Standing Committee Report No. 59 speaks broadly about the desire that "the Office of Hawaiian Affairs . . . be independent from the executive branch and all other branches of government" and that such Office was "based on the model of the University of Hawaii." This contrasts against the actual text of article XII, section 6 that "the board shall exercise power in accordance with law" That law is the law of the people of the State of Hawaii, comprised of people of all racial origins.

Accountability to the people of Hawaii is not attained merely because the members of the board of trustees are elected by Hawaiians. The Admission Act requires that the lands and proceeds derived therefrom "shall be held by such State as a public trust." The requirement that the ultimate accountability for the trust must be to all of the people of the State -- albeit the beneficiaries of a portion of that trust res may consist of only one segment or category from among all of the varied peoples of Hawaii -- is obvious by the language imposing the trust.

For the foregoing reason, your Committee has amended S.B. No. 152, S.D. 1 to ensure ultimate accountability of the board of trustees of the Office of Hawaiian Affairs to all of the people of this State as mandated by the text of the Constitutional amendments.

6. The Public Trust. The operation of a public trust for native Hawaiians under any bill purporting to fulfill the Constitutional mandate respecting Hawaiian affairs requires close scrutiny of the nature of such public trust. So far as your Committee's research has revealed, any public trust in favor of native Hawaiians must look back to the original intent of the enactment of the Hawaiian Homes Commission Act. There, research indicates that the setting aside of lands under that Act originated as an effort to rehabilitate native Hawaiians, particularly full-blooded Hawaiians, whose numbers in 1920 had dwindled from an estimate of 142,650 in 1826 to 22,500 persons.

The Congressional debate makes reference to the impoverished state of the native Hawaiians in 1920. Senator John Wise is quoted in Report No. 839 of the Committee on the Territories as saying, "The Hawaiian people are a farming people and fishermen, out-of-door people, and when they were frozen out of their land and driven into the cities they had to live in the cheapest places, tenements. That is one of the big reasons why the Hawaiian people are dying." Ex-secretary of the Interior Lane is quoted as saying, "the natives of the island, who are wards, I should say, and for whom in a sense we are trustees, are falling rapidly in numbers and many of them are in poverty."

Your Committee concludes that the reference to native Hawaiians in the Admission Act must be imposed with the same concern for the welfare of native Hawaiians and the need to rehabilitate them from their impoverished conditions. Thus, whether presently or in the future, the operation of the Office of Hawaiian Affairs must adhere to that trust and help native Hawaiians to reach social, economic and cultural parity with all other peoples of Hawaii.

7. The Election Procedure. S.B. No. 152, S.D. 1 would allow partisan election of the board of trustees of the Office of Hawaiian Affairs. Your Committee does not agree with that proposal. We think the efficacy of the Office of Hawaiian Affairs will be better served if its board of trustees was not splintered by party labels. Although we subscribe to the value of partisan alignment in affording the voters better identification of candidates with party programs in the election of legislators and the chief executive officers of the State, we would expect the board of trustees to determine its policies and programs unmindful of partisan origin.

Your Committee has deleted that portion of S.B. No. 152, S.D. 1 which would allow partisan election and incorporated housekeeping changes recommended by the chief election officer and the county clerks. Additionally, S.D. No. 152, S.D. 2 requires that the election of board members be non-partisan.

S.B. No. 152 in the form of S.D. 2 also establishes a board of trustees consisting of 9 members -- one each from Oahu, Kauai, Maui, Molokai and Hawaii, and the remaining four members being elected at large.

8. The Administrator and Staff. The dual chain of command attending the administrator of the Office of Hawaiian Affairs by S.B. No. 152, S.D. 1 will be problematic. The administrator should be accountable directly to the board of trustees. He should not be invested with separate statutory authority as provided by S.B. No. 152, S.D. 1. Your Committee has redrafted S.B. No. 152 in the form of S.D. 2 to invest all powers with the board of trustees

and to require the administrator to function as such powers are delegated to him by the board of trustees.

Your Committee has amended S.B. No. 152, S.D. 1 also to allow the administrator and the staff to be hired without fulfilling civil service requirements as provided by chapters 76 and 77. This is because the drafting of job descriptions and developing the civil service classifications may hamper the Office of Hawaiian Affairs in its initial years of operation. It was thought that the agency should be allowed to ease into its governmental operation.

9. Compensation and Trust Res. S.B. No. 152, S.D. 1 has set out compensation for the board members and the administrator as follows:

A. Board members. \$75 per meeting plus \$60 per diem for travel plus travel fare.

B. Administrator. \$32,500 annual salary plus all benefits as a state employee.

The amount of work the board members and the administrator will be required to do will depend in the main upon what the legislature will decide will be the pro rata allocation from income from lands acquired via the Admission Act. Until that is determined, your Committee feels that the board members should be reimbursed their expenses and the administrator's compensation should not be passed upon. Your Committee suggests that a bill pertaining to the pro rata allocation and compensation of the board and the administrator be considered at the next legislative session.

Accordingly, your Committee has amended S.B. No. 152, S.D. 1 to limit the compensation of the board of trustees to reimbursement of expenses and deleted the dollar amount pertaining to compensation of the administrator.

Also, S.B. No. 152, S.D. 1 would have required two-thirds vote of the board to fire the administrator. We have deleted that reference and have provided merely that the administrator shall serve at the pleasure of the board.

Your Committee notes that the last question raised by the Committee on Housing and Hawaiian Homes pertains to the sufficiency of the language addressed to the "public land trust." S.B. No. 152, S.D. 1 does not provide sufficient specificity in this regard in that the trust res to be provided via pro rata allocation from proceeds derived from the Admission Act is not addressed in any way. As previously discussed, this deficit should be remedied by another bill at a later legislative session.

10. Public Accountability. As the Constitution mandates that the Office of Hawaiian Affairs must operate "as provided by law," such requirement also reflects the responsibility of the legislature to provide adequate measures for the public accountability of that agency. Your Committee is aware of the desire and need for the Office of Hawaiian Affairs to have a measure of independence from political intrusion. For that reason, we have specified that such Office shall be "attached to the office of the governor for administrative purposes only."

However, as the Office of Hawaiian Affairs possesses the potential of administering substantial sums of public assets, your Committee is sensitive in the issue that such office must be established with budgetary and financial responsibilities. Again, the measures that must be provided in this regard must be commensurate with the magnitude of assets such office will be expected to manage. Accordingly, your Committee recommends that such measures be precisely provided when the pro rata allotment of the funds from the Admission Act should be determined.

Your Committee moreover, has provided what it feels must be the minimum in terms of such Office's accounting to the legislature. In S.B. No. 152, S.D. 2, we have provided a system of reporting in the manner of accountings filed by charitable trusts to the probate court, with the difference that a copy of such report must be availed the legislature.

We note that further refinement in the establishment and operation of the Office of Hawaiian Affairs will involve the effort to achieve a fair and workable balance between the desired independence for such office and measures that will avail to the public its accountability.

11. Budget and Appropriation. Your Committee notes that although it is imperative that the election provisions of S.B. No. 152 must be enacted during this session in some form if the election of the board of trustees is to be accommodated during the general election of 1980, we also observe that the Office of Hawaiian Affairs cannot be in operation until after the board has been elected. This means that such office requires no budget for this current biennium.

We have also deleted the appropriation provision in S.B. No. 152, S.D. 1 for the reason that it is your Committee's belief that the election of the board of trustees of the Office of Hawaiian Affairs can be accommodated with the budget already allotted the chief election officer and the county clerk.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 152, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 152, S.D. 2, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Chong.

SCRep. 397 Judiciary on S.B. No. 430

The purpose of this act is to provide appropriation for the Judiciary. Upon your Committee's review of the proposed budget, the following action has been taken on the items as indicated:

Court Operations.

1. Court of Appeals. (JUD 101) No change. The increase reflects the establishment of the intermediate appellate court with three judges and their staffs.
2. Land Court/Tax Court. (JUD 102) No change. The increase is found to be justified.
3. Circuit Court. (JUD 111)

A. First Circuit. Changes reflect the reduction of two clerk III from four positions requested for the Legal Document Section. This change reduces the funding of the First Circuit for the fiscal year as follows:

FY 1979-80	\$3,265,037	-	15,168	=	\$3,249,869
FY 1980-81	\$3,294,722	-	15,846	=	\$3,278,858

All other items have been found to be justified.

- B. Second Circuit. No change. All items have been found to be justified.
- C. Third Circuit. No change. All items have been found to be justified.
- D. Fifth Circuit. No change. All items have been found to be justified.

Accordingly, the Circuit Court budget is reduced as follows:

FY 1979-80	\$5,210,598	-	15,168	=	\$5,058,916
FY 1980-81	\$5,283,146	-	15,846	=	\$5,124,684

4. Fourth Circuit. (JUD 112) All items have been found to be justified except that the volunteer coordinator for each of the Second, Third, and Fifth Circuits have been deleted from the budget on a finding that a full-time volunteer coordinator in those circuits is not justified as the volume of the caseloads for those circuits warrant only part-time coordinators.

The changes effected for the Family Courts translate as follows:

FY 1979-80	\$4,386,399	-	35,502	=	\$4,350,897
FY 1980-81	\$4,462,735	-	37,152	=	\$4,425,583

5. District Courts. (JUD 121) The changes effected are the deletion of the following items from the budget of the District Court of the First Circuit:

- A. Deletion of one court clerk position;
- B. Deletion of the position for one clerk-stenographer I from the Counselling Service.
- C. Deletion of one keypunch operator and one clerk-typist II position from Data Processing.

The reduction of the District Courts budget results as follows:

FY 1979-80	\$4,552,115	-	38,964	=	\$5,513,151
FY 1980-81	\$5,525,795	-	40,740	=	\$5,585,055

The positions for eight security guards requested by the Judiciary have been included

in the attorney general's budget. The security guard positions are to be available to the Judiciary and are to be part of the capitol security force. The moneys for this item amounting to \$83,724 for FY 1979-80 and \$87,528 for FY 1980-81 have been included in the Judiciary budget. The Judiciary will compensate the attorney general for this service while the attorney general will train and provide services to these guards as a part of the entire force.

Support Services.

1. Administrative Director Service. (JUD 201) All items have been found to be justified.
2. Law Library. (JUD 202) All items have been found to be justified.
3. Driver Education and Training. (JUD 221) The position for illustrator has been deleted to effect the following changes:

FY 1979-80	\$628,594	-	10,344	=	\$618,250
FY 1980-81	\$648,073	-	18,812	=	\$629,261

4. Criminal Justice Information System Data Center. (JUD 231) All items have been found to be justified.

Your Committee has made no changes to the capitol improvement budget for construction costs for the Honolulu District Court. The additional \$2,200 and \$2,220 for FY 197980 and FY 198081 are due to increases in building costs during the lapse of one year in the planning process.

Your Committee also highly recommends the immediate acquisition of the Bishop Estate property at Halekauwila and Punchbowl Streets for additional building space that will be needed to house the Circuit Court and the Family Court complex. We feel that present acquisition of the site at reasonable cost will avoid higher acquisition costs later.

Your Committee does not find additional acquisition of land by the Judiciary would be warranted at this time.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 430, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 430, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 398 Judiciary on S.B. No. 117

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article X, Section 2, to which such conformance is addressed by this bill, reads as follows:

"There shall be a board of education composed of members who shall be elected in a nonpartisan manner by qualified voters, as provided by law, from two at-large school board districts. The first school board district shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second school board district shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. Each at-large school board district shall be divided into departmental school districts, as may be provided by law. There shall be at least one member residing in each departmental school district."

Your Committee amended S.B. No. 117, S.D. 1 to add a housekeeping change to Section 12-41, Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 117, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 117, S.D. 2, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Chong, Takitani and Ushijima.

SCRep. 399 Judiciary on S.B. No. 1242

The purpose of this bill is to provide for a chief executive officer of the Criminal Injuries Compensation Commission.

Testimony was heard from the Department of Social Services and Housing, generally supporting S.B. No. 1242. It's enactment should provide a more effective way to improve delivery of services to clients, and decrease the pending backlog of cases.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1242 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 Chong, Takitani and Ushijima.

SCRep. 400 Judiciary on S.B. No. 1047

The purpose of this bill is to carry out the provisions of Section 12 of Article VII of the State Constitution which establishes procedures for the authorization of special purpose revenue bonds for "utilities serving the general public." The Constitution provides that the legislature may enact enabling legislation to authorize the political subdivisions to issue special purpose revenue bonds.

As provided in the Constitution, these bonds will not count against the state debt limit. This issue emerged at the Constitutional Convention last summer because of a 1976 Hawaii Supreme Court decision relating to Act 161, SLH 1973, which authorized the State to issue revenue bonds to finance anti-pollution projects. The Court found that the bonds satisfied a public purpose, but it also found that the antipollution bonds did not qualify as revenue bonds as defined in the Hawaii Constitution at that time and would therefore have to be counted against the state debt limit.

The Constitutional Convention concluded that the authorization and issuance of special purpose bonds should be allowed without being chargeable against the debt limit, if the legislature determines the bonds to be in the public interest and if they are authorized and issued for four separate categories including utilities serving the general public.

The amended Section 12 of Article VII, specifies that no special purpose bonds can be secured, directly or indirectly, by the general credit, revenues or taxes of the issuer. The enterprise for which the bonds are issued must be solely responsible for making payment on the bonds. This constitutional language also prohibits the use of public funds, directly or indirectly, to pay the principal and interest on any special purpose revenue bonds. Thus, the issuing jurisdiction is prohibited from incurring even a "moral obligation" in the event of default on the bonds.

Your Committee has amended this short-form bill by adding a new chapter to the Hawaii Revised Statutes which would authorize the issuance of special purpose revenue bonds by the counties to assist utilities serving the general public to obtain lower cost, tax exempt financing in connection with the issuance of special purpose revenue bonds. This bill sets forth detailed procedures governing the issuance of the bonds, including safeguards to insure that the county incurs no cost, direct or indirect, in connection with the bonds.

This bill would authorize the counties, by appropriate action (2/3) vote of their respective governing bodies, to issue special purpose revenue bonds to assist gas and electric utilities in Hawaii in obtaining lower cost bond financing for land and facilities. The assistance would be by the issuance of tax exempt revenue bonds, the proceeds of which would be loaned to the electric or gas utility. Tax exempt bonds can be sold to investors at a lower interest rate, possibly as much as 3 per cent less than taxable bonds. This savings in interest cost would be reflected in the electric or gas rates established by the Hawaii Public Utilities Commission in rate case proceedings. Since the Hawaii Public Utilities Commission already allows the utility to charge rates which cover its capital costs, the ratepayer ends up paying these capital costs. Therefore, a reduction in the capital costs is of benefit to the ratepayer rather than to the stockholders of the utility.

The special purpose revenue bonds cannot be secured directly or indirectly by the general credit of the county or by any revenues or taxes of that county but, rather, solely by the utility (technically, the security is the receipts derived from payments made by the utility to cover the payments of interest and principal due on the bonds). In accordance with Article VII, Section 12 of the Constitution, this bill provides specifically that no monies other than such receipts of revenues shall be applied to the payment of the bonds. This guarantees that the bonds are constitutionally prohibited from being even a moral obligation of the counties. Thus, needed utility facilities can be provided at no cost, direct or indirect, to the county and at significantly lower cost to the rate-payers. This benefit comes because Congress has exempted from federal income taxation the interest on bonds issued by public bodies for providing facilities for the "local" furnishing of electric energy or gas, which

has been defined as facilities which are part of a system providing service to the general public of not more than two contiguous counties. By reason of its unique geography and the fact that none of Hawaii's counties are "contiguous" (because of their 3 mile boundaries from shore), Hawaii fits into this Federal Internal Revenue Service definition particularly well. On the other hand, it can't be emphasized enough that Hawaii's geographical location penalizes us by precluding interconnection with national or regional electric grid systems or gas pipeline systems. Being unable to interconnect with these national grid systems results in increases in the local cost of energy. The use of special purpose revenue bonds, as described, would significantly help to offset this disadvantage.

Before any bonds can be issued, specific authorization is required for each project or multi-project program by a 2/3 vote of the applicable county council. Thus, continuing reviews will take place for each project or multi-project program. Therefore, the county can limit or stop the use of special purpose bonds if in its judgment any problems arise with respect to the amount of such bonds being issued or any other problems.

Your Committee finds that the health, safety, and general welfare of the people of the state require that every opportunity be taken to assist utilities serving the general public in providing electric energy or gas at the lowest possible cost; that due to the geographical location of the state, interconnection with national or regional electric grid systems or gas pipeline systems is impossible, the consequence of which increases local cost of energy; that efforts are being made at state and federal levels to accomplish lower cost of energy, including at the federal level the provisions of the U.S. Internal Revenue Code exempting from federal taxation the interest on bonds issued by public bodies for the provision of facilities for the local furnishing of electric energy or gas or for air or water pollution control; that the interest on borrowings necessary to provide such facilities is a significant factor in the cost of electric energy and gas and that the interest cost would be less if tax exempt bonds could be issued for the financing thereof; that the protection and promotion of the public health and the maintenance of a standard of living compatible with decency and health at the lowest practicable cost can be encouraged with the assistance of the county through the issuance of special purpose revenue bonds by the county to finance the cost of facilities for local furnishing of electric energy or gas; and that the assistance of utilities serving the general public by issuance by the county of special purpose revenue bonds to finance the cost of facilities for the local furnishing of electric energy or gas is a valid public purpose and in the public interest.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1047, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1047, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 401 Judiciary on S.B. No. 1192

The purpose of this bill is to carry out the provisions of Section 12 of Article VII of the state Constitution which establishes procedures for the authorization of special purpose revenue bonds for "utilities serving the general public." The Constitution provides that the legislature may enact enabling legislation to authorize the department of budget and finance to issue special purpose revenue bonds.

As provided in the Constitution, these bonds will not count against the state debt limit. This issue emerged at the Constitutional Convention last summer because of a 1976 Hawaii Supreme Court decision relating to Act 161, SLH 1973, which authorized the State to issue revenue bonds to finance anti-pollution projects. The Court found that the bonds satisfied a public purpose, but it also found that the antipollution bonds did not qualify as revenue bonds as defined in the Hawaii Constitution at that time and would therefore have to be counted against the state debt limit.

The Constitutional Convention concluded that the authorization and issuance of special purpose bonds should be allowed without being chargeable against the debt limit, if the legislature determines the bonds to be in the public interest and if they are authorized and issued for four separate categories including utilities serving the general public.

The amended Section 12 of Article VII, specifies that no special purpose bonds can be secured, directly or indirectly, by the general credit, revenues or taxes of the issuer. The enterprise for which the bonds are issued must be solely responsible for making payment on the bonds. This constitutional language also prohibits the use of public funds, directly or indirectly, to pay the principal and interest on any special purpose revenue bonds. Thus, the issuing jurisdiction is prohibited from incurring even a "moral obligation" in the event of default on the bonds.

Your Committee has amended this short-form bill by adding a new chapter to the Hawaii Revised Statutes which would authorize the issuance of special purpose revenue bonds by the state department of budget and finance to assist utilities serving the general public to obtain lower cost, tax exempt financing in connection with the issuance of special purpose revenue bonds. This bill sets forth detailed procedures governing the issuance of the bonds, including safeguards to insure that the State incurs no cost, direct or indirect, in connection with the bonds.

This bill would authorize the department of budget and finance, by appropriate action (2/3 vote) of the legislature, to issue special purpose revenue bonds to assist gas and electric utilities in Hawaii in obtaining lower cost bond financing for land and facilities. The assistance would be by the issuance of tax exempt revenue bonds, the proceeds of which would be loaned to the electric or gas utility. Tax exempt bonds can be sold to investors at a lower interest rate, possibly as much as three per cent less than taxable bonds. This savings in interest cost would be reflected in the electric or gas rates established by the public utilities commission in rate case proceedings. Since the public utilities commission already allows the utility to charge rates which cover its capital costs, the ratepayer ends up paying these capital costs. Therefore, a reduction in the capital costs is of benefit to the ratepayer rather than to the stockholders of the utility.

The special purpose revenue bonds cannot be secured directly or indirectly by the general credit of the county or by any revenues or taxes of the State but, rather, solely by the utility (technically, the security is the receipts derived from payments made by the utility to cover the payments of interest and principal due on the bonds). In accordance with Article VII, Section 12 of the Constitution, this bill provides specifically that no moneys other than such receipts of revenues shall be applied to the payment of the bonds. This guarantees that the bonds are constitutionally prohibited from being even a moral obligation of the State. Thus, needed utility facilities can be provided at no cost, direct or indirect, to the State and at significantly lower cost to the rate-payers. This benefit comes because Congress has exempted from federal income taxation the interest on bonds issued by public bodies for providing facilities for the "local" furnishing of electric energy or gas, which has been defined as facilities which are part of a system providing service to the general public of not more than two contiguous counties. By reason of its unique geography and the fact that none of Hawaii's counties are "contiguous" (because of their three-mile boundaries from shore), Hawaii fits into this federal Internal Revenue Service definition particularly well. On the other hand, it can't be emphasized enough that Hawaii's geographical location penalizes us by precluding interconnection with national or regional electric grid systems or gas pipeline systems. Being unable to interconnect with these national grid systems results in increases in the local cost of energy. The use of special purpose revenue bonds, as described, would significantly help to offset this disadvantage.

Before any bonds can be issued, specific authorization is required for each project or multi-project program by a separate general law by a two-thirds vote of the legislature. Thus, continuing reviews will take place for each project or multi-project program. Therefore, the county can limit or stop the use of special purpose bonds if in its judgment any problems arise with respect to the amount of such bonds being issued or any other problems.

Your Committee finds that the health, safety, and general welfare of the people of the State require that every opportunity be taken to assist utilities serving the general public in providing electric energy or gas at the lowest possible cost; that due to the geographical location of the State, interconnection with national or regional electric grid systems or gas pipeline systems is impossible, the consequence of which increases local cost of energy; that efforts are being made at state and federal levels to accomplish lower cost of energy, including at the federal level the provisions of the U.S. Internal Revenue Code exempting from federal taxation the interest on bonds issued by public bodies for the provision of facilities for the local furnishing of electric energy or gas or for air or water pollution control; that the interest on borrowings necessary to provide such facilities is a significant factor in the cost of electric energy and gas and that the interest cost would be less if tax exempt bonds could be issued for the financing thereof; that the protection and promotion of the public health and the maintenance of a standard of living compatible with decency and health at the lowest practicable cost can be encouraged with the assistance of the State through the issuance of special purpose revenue bonds by the State to finance the cost of facilities for local furnishing of electric energy or gas; and that the assistance of utilities serving the general public by issuance by the State of special purpose revenue bonds to finance the cost of facilities for the local furnishing of electric energy or gas is a valid public purpose and in the public interest.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1192, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1192, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 402 Legislative Management

Informing the Senate that S.C.R. Nos. 39 and 40, S.R. Nos. 196 to 202 and Stand. Com. Rep. Nos. 137 to 401 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 403 Legislative Management

Informing the Senate that S.C.R. Nos. 41 and 42 and S.R. Nos. 203 to 214 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 404 Judiciary on S.B. No. 9

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The pertinent language of Article II to which such conformance is addressed by this bill reads as follows:

Section 4. The legislature shall provide for the registration of voters and for absentee voting and shall prescribe the method of voting at all elections. Secrecy of voting shall be preserved; provided that no person shall be required to declare a party preference or nonpartisanship as a condition of voting in any primary or special primary election. Secrecy of voting and choice of political party affiliation or nonpartisanship shall be preserved.

The primary concern of your Committee in conforming the Hawaii Revised Statutes, Chapters 11 and 12, to changes in the Hawaii State Constitution has been to delete all references to party preference or nonpartisanship as a prerequisite to voting in a primary, or special primary election.

In deleting such references, your Committee believes that these changes fulfill the mandate of Article II, section 4, to "permit secrecy of voting and choice of party affiliation". Your Committee has not dealt with the issue of changing our present election system to a blanket or open primary as such concern is not directly addressed by the language of Article II, section 4 and thus, should best be left for future determination by the Legislature.

It should also be noted, that S.B. No. 9 has retained the current status of the law by restricting the voter's choice to candidates of only one party or nonpartisanship. It is again the concern of your Committee, to fully implement Article II, section 4, to allow for secrecy of voting, but within the confines of the present election system.

Your Committee upon further consideration has amended S.B. No. 9, to clarify the procedure to be utilized in determining the placement of candidates' names by party or nonpartisanship on the primary election ballot.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 9, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 9, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 405 Transportation on S.B. No. 1118

The purpose of this bill is to amend Section 268-16, Hawaii Revised Statutes, to give the director of transportation discretion in submitting a report on his activities under this chapter to the legislature.

Your Committee heard testimony from the department of transportation in favor of this bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1118 and recommends that it pass Second Reading and be placed on the calendar that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 406 Transportation on S.B. No. 1506

The purpose of this bill relates to transportation.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No.

1506, and recommends it pass First Reading by title and be recommitted to the Committee on Transportation for further consideration.

Signed by all members of the Committee.

SCRep. 407 Transportation on S.B. No. 1760

The purpose of this bill is to bring the authority of law enforcement officers designated by the Director of Transportation into conformance with the requirements of the Federal Aviation Administration by the deletion of three words in Section 261-17, Hawaii Revised Statutes.

Your Committee heard testimony from the Department of Transportation on this bill. The Department of Transportation stated that heretofore the Federal Aviation Administration has required only that said law enforcement officers have the authority to enforce aeronautical laws and regulations. Revisions to FAR 107 were published in the Federal Register on December 28, 1978 requiring that law enforcement officers involved in the support of airport security programs must have authority to enforce criminal statutes, effective March 29, 1979. The new Section 107.17(b) of FAR 107 requires that the law enforcement officer have the authority to arrest for violations of the criminal laws of the State and local jurisdictions in which the airport is located.

Your Committee finds that this bill will give the Department of Transportation the necessary authority to comply with the present requirements of the Federal Aviation Administration.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1760 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 408 Economic Development on S.B. No. 1588

The purpose of this bill is to amend section 205-6, Hawaii Revised Statutes, pertaining to Special Use Permits by providing that only those Special Use Permit requests involving lands with an area greater than fifteen acres shall be subject to approval by the land use commission. All other Special Use Permits shall only be subject to approval by the appropriate county planning commission.

Testimony given by the land use commission emphasized that steps are needed to streamline the complex land use regulatory systems. Pursuant to this need, the commission believes that land use decisions whose impact is limited to a particular county should be decided by that particular county. The bill would accomplish this goal by placing decisions on Special Use Permits for land areas of less than fifteen acres to the appropriate county decision-making body. According to testimony by the department of planning and economic development, such a change would eliminate approximately 75 per cent of the Special Use Permits presently being reviewed by the land use commission and would allow the land use commission to concentrate its efforts on those Special Use Permits which would have greater impact of a statewide nature. In addition, such a change would make the system more efficient by leaving the decision on Special Use Permits to the body most qualified to make such a decision, thereby avoiding costly delays and duplication of efforts.

Your Committee is in accord with the aforementioned proposal to streamline the land use regulatory system.

The department of land and utilization, city and county of Honolulu, recommended further amendments to the bill. The purpose of the amendments is to bring the processing of Special Use Permits into conformity with the City Charter which designates the city and county of Honolulu's planning commission as an "advisory", not a decision-making body. The law currently requires the county planning commissions to make final decisions on permits. This is clearly inconsistent with the Charter of the city and county of Honolulu.

Your Committee has amended the bill by adding provisions for land use decision-making by other county agencies in cases where the county planning commissions is an advisory body only. Other changes conforming to this amendment were also made.

Your Committee has made other technical changes to the bill by renumbering section 2 to section 3 and adding a new section 2 setting forth the effect of underscoring and bracketing in the bill.

Your Committee on Economic Development is in accord with the intent and purpose of

S.B. No. 1588, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1588, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 409 Ways and Means on S.B. No. 1096

The purpose of this bill is to appropriate moneys to fund collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 1 for the fiscal biennium 1979-1981.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill would allow the legislature to accomplish this goal.

Part I provides funds to Program Planning, Analysis, Budgeting (BUF 101), to be allotted by the Director of Finance, for all collective bargaining cost items negotiated with the bargaining representative of bargaining unit 1. Part II of the bill provides funds to Administrative Director Services (JUD 201), to be allotted by the Administrative Director to the Courts for all collective bargaining cost items negotiated with the exclusive bargaining representative of collective bargaining unit 1. Part III provides for payment of salary increases by federal, special or other funds, depending upon the funding source of an employee's compensation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1096, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1096, S.D. 2.

Signed by all members of the Committee.

SCRep. 410 Ways and Means on S.B. No. 1097

The purpose of this bill is to appropriate moneys to fund collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 2 for the fiscal biennium 1979-1981.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill would allow the legislature to accomplish this goal.

Part I provides funds to Program Planning, Analysis, Budgeting (BUF 101), to be allotted by the Director of Finance, for all collective bargaining cost items negotiated with the bargaining representative of bargaining unit 2. Part II provides for payment of salary increase by federal, special or other funds, depending upon the funding source of an employee's compensation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1097, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1097, S.D. 2.

Signed by all members of the Committee.

SCRep. 411 Ways and Means on S.B. No. 1098

The purpose of this bill is to appropriate moneys to fund collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 3 for the fiscal biennium 1979-1981.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill would allow the legislature to accomplish this goal.

Part I provides funds to Program Planning, Analysis, Budgeting (BUF 101), to be allotted by the Director of Finance, for all collective bargaining cost items negotiated with the bargaining representative of bargaining unit 3. Part II of the bill provides funds to Administrative Director Services (JUD 201), to be allotted by the Administrative Director to the Courts for all collective bargaining cost items negotiated with the exclusive bargaining representative of collective bargaining unit 3. Part III provides for payment of salary increases by federal, special or other funds, depending upon the funding source of an employee's compensation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1098, S.D. 1, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1098, S.D. 2.

Signed by all members of the Committee.

SCRep. 412 Ways and Means on S.B. No. 1099

The purpose of this bill is to appropriate moneys to fund collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 4 for the fiscal biennium 1979-1981.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill would allow the legislature to accomplish this goal.

Part I provides funds to Program Planning, Analysis, Budgeting (BUF 101), to be allotted by the Director of Finance, for all collective bargaining cost items negotiated with the bargaining representative of bargaining unit 4. Part II of the bill provides funds to Administrative Director Services (JUD 201), to be allotted by the Administrative Director to the Courts for all collective bargaining cost items negotiated with the exclusive bargaining representative of collective bargaining unit 4. Part III provides for payment of salary increases by federal, special or other funds, depending upon the funding source of an employee's compensation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1099, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1099, S.D. 2.

Signed by all members of the Committee.

SCRep. 413 Ways and Means on S.B. No. 1100

The purpose of this bill is to appropriate moneys to fund collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 5 for the fiscal biennium 1979-1981.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill would allow the legislature to accomplish this goal.

Part I provides funds to Program Planning, Analysis, Budgeting (BUF 101), to be allotted by the Director of Finance, for all collective bargaining cost items negotiated with the bargaining representative of bargaining unit 5. Part II provides for payment of salary increase by federal, special or other funds, depending upon the funding source of an employee's compensation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1100, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1100, S.D. 2.

Signed by all members of the Committee.

SCRep. 414 Ways and Means on S.B. No. 1101

The purpose of this bill is to appropriate moneys to fund collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 6 for the fiscal biennium 1979-1981.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill would allow the legislature to accomplish this goal.

Part I provides funds to Program Planning, Analysis, Budgeting (BUF 101), to be allotted by the Director of Finance, for all collective bargaining cost items negotiated with the bargaining representative of bargaining unit 6. Part II provides for payment of salary increase by federal, special or other funds, depending upon the funding source of an employee's compensation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1101, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as

S.B. No. 1101, S.D. 2.

Signed by all members of the Committee.

SCRep. 415 Ways and Means on S.B. No. 1102

The purpose of this bill is to appropriate moneys to fund collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 7 for the fiscal biennium 1979-1981.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill would allow the legislature to accomplish this goal.

Part I provides funds to Program Planning, Analysis, Budgeting (BUF 101), to be allotted by the Director of Finance, for all collective bargaining cost items negotiated with the bargaining representative of bargaining unit 7. Part II provides for payment of salary increase by federal, special or other funds, depending upon the funding source of an employee's compensation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1102, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1102, S.D. 2.

Signed by all members of the Committee.

SCRep. 416 Ways and Means on S.B. No. 1103

The purpose of this bill is to appropriate moneys to fund collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 8 for the fiscal biennium 1979-1981.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill would allow the legislature to accomplish this goal.

Part I provides funds to Program Planning, Analysis, Budgeting (BUF 101), to be allotted by the Director of Finance, for all collective bargaining cost items negotiated with the bargaining representative of bargaining unit 8. Part II provides for payment of salary increase by federal, special or other funds, depending upon the funding source of an employee's compensation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1103, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1103, S.D. 2.

Signed by all members of the Committee.

SCRep. 417 Ways and Means on S.B. No. 1104

The purpose of this bill is to appropriate moneys to fund collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 9 for the fiscal biennium 1979-1981.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill would allow the legislature to accomplish this goal.

Part I provides funds to Program Planning, Analysis, Budgeting (BUF 101), to be allotted by the Director of Finance, for all collective bargaining cost items negotiated with the bargaining representative of bargaining unit 9. Part II of the bill provides funds to Administrative Director Services (JUD 201), to be allotted by the Administrative Director to the Courts for all collective bargaining cost items negotiated with the exclusive bargaining representative of collective bargaining unit 9. Part III provides for payment of salary increases by federal, special or other funds, depending upon the funding source of an employee's compensation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1104, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1104, S.D. 2.

Signed by all members of the Committee.

SCRep. 418 Ways and Means on S.B. No. 1105

The purpose of this bill is to appropriate moneys to fund collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 10 for the fiscal biennium 1979-1981.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill would allow the legislature to accomplish this goal.

Part I provides funds to Program Planning, Analysis, Budgeting (BUF 101), to be allotted by the Director of Finance, for all collective bargaining cost items negotiated with the bargaining representative of bargaining unit 10. Part II of the bill provides funds to Administrative Director Services (JUD 201), to be allotted by the Administrative Director to the Courts for all collective bargaining cost items negotiated with the exclusive bargaining representative of collective bargaining unit 10. Part III provides for payment of salary increases by federal, special or other funds, depending upon the funding source of an employee's compensation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1105, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1105, S.D. 2.

Signed by all members of the Committee.

SCRep. 419 Ways and Means on S.B. No. 1106

The purpose of this bill is to appropriate moneys to fund collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 11 for the fiscal biennium 1979-1981.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill would allow the legislature to accomplish this goal.

Part I provides funds to Program Planning, Analysis, Budgeting (BUF 101), to be allotted by the Director of Finance, for all collective bargaining cost items negotiated with the bargaining representative of bargaining unit 11. Part II provides for payment of salary increase by federal, special or other funds, depending upon the funding source of an employee's compensation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1106, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1106, S.D. 2.

Signed by all members of the Committee.

SCRep. 420 Ways and Means on S.B. No. 1108

The purpose of this bill is to appropriate moneys to fund collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit 13 for the fiscal biennium 1979-1981.

Your Committee finds that proper review and consideration of collective bargaining agreements by the legislature requires separate examination of the negotiated agreement of each bargaining unit. This bill would allow the legislature to accomplish this goal.

Part I provides funds to Program Planning, Analysis, Budgeting (BUF 101), to be allotted by the Director of Finance, for all collective bargaining cost items negotiated with the bargaining representative of bargaining unit 13. Part II of the bill provides funds to Administrative Director Services (JUD 201), to be allotted by the Administrative Director to the Courts for all collective bargaining cost items negotiated with the exclusive bargaining representative of collective bargaining unit 13. Part III provides for payment of salary increases by federal, special or other funds, depending upon the funding source of an employee's compensation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1108, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1108, S.D. 2.

Signed by all members of the Committee.

SCRep. 421 Legislative Management

Informing the Senate that S.C.R. No. 43, S.R. Nos. 215 to 217 and Stand. Com. Rep. Nos. 404 to 420 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 422 Ways and Means on S.B. No. 3

The purpose of this bill relates to making appropriations for capital improvement projects and to authorize the issuance of bonds.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3 and recommends that it pass First Reading by title and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senators Abercrombie, Hara, Toyofuku, Anderson and Yee.

SCRep. 423 Ways and Means on S.B. No. 52

The purpose of this bill is to conform the Hawaii Revised Statutes to certain amendments to the Hawaii State Constitution relating to justices and judges, by repealing existing statutory law governing retirement and removal of justices and judges, so that the judiciary can implement the constitutional amendment relative thereto.

Your Committee has amended this bill in accordance with testimony submitted by the judiciary, by amending the statute relating to district family judges, to conform that statute with the requirements of the constitutional amendment. Similar amendments are being made by other bills, to conform the statutes to the constitution.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 52, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 52, S.D. 2.

Signed by all members of the Committee except Senators Toyofuku, Yim, Anderson and Yee.

SCRep. 424 Ways and Means on S.B. No. 602

The purpose of this bill is to delete a provision from the present law requiring the public defender's office to pay for filing fees, appeal bonds and other court costs for indigent criminal defendants.

Your Committee finds that the payment of these court costs by the public defender's office is a superfluous requirement as such fees can be waived by the courts pursuant to Chapter 607, Hawaii Revised Statutes, upon a showing of indigency.

Moreover, the implementation of this requirement unnecessarily imposes an administrative burden upon the State. In essence, this requirement provides for the State to pay itself at considerable expense in terms of administrative time required to budget and process payment for such costs.

Your Committee has amended this bill by renumbering section 2 as section 3 and inserting a new section 2 indicating the effect of the brackets in the bill and by making minor nonsubstantive technical changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 602, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 602, S.D. 1.

Signed by all members of the Committee except Senators Toyofuku, Yim, Anderson and Yee.

SCRep. 425 Ways and Means on S.B. No. 615

The purpose of this bill is to allow reemployment of pensioned patients at Kalaupapa Settlement without loss of their pensions or other benefits.

Present law does not contain provisions regarding reemployment of these retired patient employees. Kalaupapa's isolation often makes it difficult to recruit qualified persons to

fill vacancies in civil service positions. Some of these positions, however, could be filled by patient employees on a part-time basis. These resident patients form a readily available pool of available employees, but a majority of them are retired from patient employment positions and are now receiving lifetime pensions from the State. Some of these retirees prefer not to be idle and would consider returning to work; provided they would not be required to relinquish their pensions.

Your Committee finds that enactment of this bill serves the dual function of meeting Kalaupapa's manpower requirement while also enabling those retirees who wish to be productive to be reemployed on a part-time basis without having to relinquish their pensions.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 615, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Toyofuku, Yim, Anderson and Yee.

SCRep. 426 Ways and Means on S.B. No. 666

The purpose of this bill is to establish a statutory basis for the recovery of overpayments of public assistance.

Your Committee finds that present statutory authority to recover overpayments is unclear, except where the overpaid recipient is convicted of fraud and restitution is ordered by the courts. The lack of clear statutory authority to enforce recovery of overpayments results in a considerable loss of public assistance dollars.

This bill provides the statutory authority for the department to recover all overpayments. The Director of Social Services, Andrew I. T. Chang, reports that this bill authorizes recovery to the extent allowed by federal regulations. Furthermore, the bill allows the department to waive recovery of overpayments in cases of hardship or where the costs of recovery exceed the anticipated amount of collection.

Your Committee has made technical amendments without changing the substance of this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 666, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 666, S.D. 2.

Signed by all members of the Committee except Senators Toyofuku, Yim, Anderson and Yee.

SCRep. 427 Ways and Means on S.B. No. 677

The purpose of this bill is to authorize the director of transportation, with the prior approval of the director of finance and comptroller, to establish clearing accounts and to make advances to such accounts with reimbursement therefor.

Your Committee finds that presently the land transportation facilities division of the department of transportation operates three major reimbursable clearing accounts. These accounts are payroll clearing, employee benefit clearing, and construction administration. The clearing account method has been instituted and utilized by the department because a large part of this division's expenditures is project funded. This involves the funding of approximately 600 employees, who work on one or more projects in a pay period and other related costs. If the department of transportation were to wait for the semimonthly timesheets to determine the exact fund and appropriation accounts out of which these employees are to be paid, it would be virtually impossible to pay these employees on schedule and it would be extremely difficult or impossible to allocate indirect costs to projects.

The department of transportation testified that the reimbursable clearing account method has been accepted by the state comptroller as an acceptable accounting method to redistribute costs and recommended passage of this bill.

Your Committee has amended this bill by providing for a new section 2 on the effect of underscoring in the bill and by renumbering section 2 to read section 3.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 677, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 677, S.D. 1.

Signed by all members of the Committee except Senators Toyofuku, Anderson and Yee.
SCRep. 428 Ways and Means on S.B. No. 1737

The purpose of this bill is to provide a means to settle disputes when temporary total disability benefits are stopped.

Your Committee finds that under present law, the employer pays the temporary total disability benefits as accrued, unless the rights to the benefits are controverted by the employer. The statute does not provide adequate penalties when benefits are unilaterally terminated and is unclear as to when such benefits should be terminated and as to the rights of the worker should such termination occur.

This bill would require the employer who ceases payment of temporary total disability benefits to an injured employee because of medical stabilization or filing of a false claim, to notify the employee and the director of labor and industrial relations in writing of such termination at least two weeks before the last payment is made. The notification shall state the reason for termination of benefits and that if the employee is of the opinion that the employer unlawfully terminated benefits, the employee may make a written request to the department for a hearing. The department, upon receipt of such a request, shall hold a hearing and render a decision as expeditiously as possible.

Your Committee has amended this bill by making several nonsubstantial technical changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1737, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1737, S.D. 1.

Signed by all members of the Committee except Senators Toyofuku, Yim, Anderson and Yee.

SCRep. 429 Legislative Management

Informing the Senate that S.R. Nos. 218 to 220 and Stand. Com. Rep. Nos. 422 to 428 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 430 Human Resources on S.B. No. 1422

The purpose of this Act is to allow nationals or permanent resident aliens residing in Hawaii to become government officers.

Under current law, government officers must be citizens of the United States. The exclusion of nationals and permanent resident aliens from public office is inequitable since these persons pay state income, excise, and property taxes and are subject to and must obey state laws just as if they were citizens of the United States. Nationals and permanent resident aliens residing in Hawaii are subject to laws producing revenues for government operations and to laws and rules enacted by this government. These same people, however, are denied by statute the opportunity to serve as public officers. Your Committee finds that this situation should be corrected by this bill. Your Committee notes that subsection (b) of the same section was amended in 1976 to provide that nationals and permanent resident aliens could become government employees to conform to court decisions requiring equal protection of the laws. While there is no similar legal basis requiring (or barring) an amendment for public officers, as contained in this bill, your Committee finds that this bill would be consistent with the 1976 amendment.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1422 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 431 (Joint) (Majority) Intergovernmental Relations and Economic Development on S.B. No. 1164

The purpose of this bill is to create a new chapter in the Hawaii Revised Statutes to serve as an enabling act which permits counties with an interest in the concept of transferable development rights to go forward and designate development rights districts.

Your joint Committee received extensive testimonies in support of the bill. Such testimonies

were from Mr. Carrol S. Taylor, attorney; Mr. Stanley Baird of Mortgage Bankers Association, Mr. Yuki Matsumoto, President, Consulting Engineers Council; Mr. Richard B. Ferguson of Ferguson & Sutton; Mr. Wesley Hillendahl of Bank of Hawaii; Mr. A. James Wriston, attorney; and Mr. Elroy Chun, Home Builders Association of Hawaii. Mr. Hideto Kono, Director of the State Department of Planning and Economic Development, testified that the bill is in need of further clarification.

Your joint Committee has considered this bill and has concluded that this new concept in land use planning has potential far reaching benefits to our community. Your Committee believes that further work needs to be done respecting the points of clarification raised by DPED and others. Because of time constraints, however, your committee has decided to report the bill out as introduced.

Your Committees on Intergovernmental Relations and Economic Development are in accord with the intent and purpose of S.B. No. 1164, and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Senators Carpenter and Hara.
Senator Abercrombie did not concur.

SCRep. 432 Judiciary on S.B. No. 276

The purpose of this bill is to deal with the disparity between the damaged or stolen property values and their penalties. Presently, a person who steals or damages property amounting to extremely high values is subject to the same penalty as the person who commits a crime which barely exceeds the minimum values set by the present statutes.

S.B. No. 276 includes additional degrees of penalty based upon the value of the property or services affected. This would not only be more satisfactory to the victims of high loss crimes but to those defendants whose degrees of damage to society are not as significant as others who now face the same penalties. The public in general would also benefit from any additional deterrence resulting from the passage of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 276 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 433 Judiciary on S.B. No. 594

The purpose of S.B. No. 594 is to close a legal loophole that exists in our current drug statute. Presently, those who illegally manufacture and/or distribute drugs in forms other than capsules, tablets, ampules or syrettes in the amounts designated under Section 712-1241 cannot be prosecuted for class "A" felony.

Your Committee amended S.B. No. 594 to include a specific definition of "dosage unit" in section 712-1240, Hawaii Revised Statutes. This definitional section was also expanded by adding "prescribe" to the definitions of "distribute" and "practitioner." This would allow the Honolulu Police Department and Division of Narcotics and Dangerous Drug Control under the Health Department to further pursue the illegal distribution of drugs, including those "dosage units."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 594, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 594, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 434 Judiciary on S.B. No. 599

The purpose of this bill is to expand the definition of "a dangerous instrument" to include a firearm that is either loaded or unloaded.

Testimony was heard from the Honolulu Police Department which stated that the distinction was a necessary and important one. In robbery charges, the definition has been used to reduce the conviction to robbery in the second degree if the firearm was unloaded. However, to the victim involved, it is traumatic enough to be looking down the barrel of a firearm without being concerned if it is loaded or unloaded.

S.B. No. 599 was amended to expand the definition of firearm in section 134-1, Hawaii Revised Statutes, reflecting the same changes made in the Penal Code.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 599, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 599, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 435 Judiciary on S.B. No. 614

The purpose of this bill is to allow the court more flexibility in appointing mental health professionals as members of sanity commission.

Currently, the three members of a sanity commission appointed by the court must consist of at least two qualified psychiatrists and a third professional who may be a psychiatrist or a certified clinical psychologist.

This particular requirement has been creating difficulty on the neighbor islands where there is a shortage of various types of mental health professionals. Because two of the members must be psychiatrists, this has resulted in several instances where the defendant had to be sent to the State Hospital at Kaneohe or to the Oahu jail facility where the appropriate number and type of professional people could be found. This results in delay and unnecessary expense. On occasion the Courts and Correction Branch staff has also sent a person over to a neighbor island to perform this function which again results in a delay and additional unnecessary expense. If the sanity commission membership is changed as proposed, there should be no difficulty in finding the appropriate number and types of professional people to do the job on neighbor islands. The proposal would require that one of the three members be a qualified psychiatrist, one of the members be a certified clinical psychologist, and the third could either be a qualified psychiatrist or a certified clinical psychologist.

This change would result in a more efficient and less expensive service to the court.

Clinical psychologists have been serving on sanity commissions for the past three years with the same quality of service delivered as in previous years when all three members had to be qualified physicians. There would be no change in the quality or type of service to the court under this proposed change.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 614 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 436 Judiciary on S.B. No. 275

The purpose of this bill is to simplify and strengthen the definition of pornography in the Hawaii Penal Code, and to bring it in line with specifications enumerated by the United States Supreme Court in Miller v. California, 413 U.S. 15 (1973).

Testimony was heard from many members of the community who supported the intent of S.B. No. 275. The Honolulu Police Department also supported the proposed changes, stating that such proposals will aid enforcement and result in a higher rate of success in the prosecution of pornography cases.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 275 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 437 Human Resources on S.B.No. 621

The purpose of this bill is to exempt from the workers' compensation law persons who serve as corporate officers and perform services for the corporation, but receive no compensation.

Your Committee finds that such persons are currently excluded from the coverage of the Temporary Disability Insurance Law, and the Prepaid Health Care Law. Exclusion from the Workers' Compensation Law would be consistent with the State's current practice in the other two areas. Your Committee also notes that exclusion would also be consistent with the Unemployment Insurance Law where no tax liability is incurred by the corporation since no wages are paid and consequently the corporate officer is not entitled to unemployment insurance benefits.

Your Committee has made nonsubstantive, technical amendments to this bill to conform

to Act 80, SLH 1978.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 621 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 621, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 438 Human Resources on S.B. No. 671

The purpose of this bill is to amend Section 576-30 (State Information Agency) to designate the Department of Social Services and Housing, rather than the Legislative Reference Bureau, as the State Information Agency responsible for duties which include compiling a list of addresses of State courts with vested authority under this Chapter (Uniform Reciprocal Enforcement Act), and transmitting the same to states with similar or adopted acts granting such courts jurisdiction to impose child support.

Your Committee finds that the Governor, by Executive Order, designated the Department of Social Services and Housing to implement the State Plan requirements of Title IV-D (Federal Child Support Enforcement Program), effective July 1, 1975. This Plan includes cooperation with other states; the maintenance of comprehensive records of collections and reimbursement and reciprocal enforcement of support from any state, territory, or possession of the United States and the District of Columbia.

Your Committee further finds that in 1953, the Legislative Reference Bureau became the State Information Agency when the Uniform Reciprocal Enforcement of Support Act was first enacted; at that time, the number of out-of-state complaints was relatively few. However, there has been a current increase in paperwork and referrals that properly belong under a line agency more directly connected with substantive programs.

This bill designates the Department of Social Services and Housing, rather than the Legislative Reference Bureau, as the State Information Agency. This would eliminate the unnecessary layer of processing, as well as improve program efficiency.

Your Committee has made technical amendments to this bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 671, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 671, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 439 Legislative Management

Informing the Senate that S.C.R. No. 44, S.R. No. 221 and Stand. Com. Rep. Nos. 430 to 438 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 440 Judiciary on S.B. No. 578

The purpose of this bill is to amend Article XVII, Section 2, of the Constitution of the State of Hawaii to raise the percentage of voters who must ratify an amendment or revision from thirty-five per cent to fifty per cent of all votes cast as the particular election.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 578 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 441 Economic Development on S.B. No. 1739

The purpose of this bill is to amend section 188-31, Hawaii Revised Statutes, by providing that permittees whose aquarium fish permits are canceled by the board of land and natural resources shall not be issued a new aquarium fish permit for a period of two years after the cancellation of the permit.

Your Committee finds that the sanction provided in the amendment to section 188-31, Hawaii Revised Statutes, is reasonable.

Your Committee has made nonsubstantive, technical amendments to the bill, renumbering

section 2 as section 3, and adding a new section 2 indicating the effect of underscoring and bracketing in the bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1739, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1739, S.D. 1.

Signed by all members of the Committee except Senator Carroll.

SCRep. 442 Intergovernmental Relations on Gov. Msg. No. 44

Recommending that the Senate advise and consent to the nomination of VALENTINE A. SIEFERMANN as Adjutant General, for term ending December 6, 1982.

Signed by all members of the Committee.

SCRep. 443 Intergovernmental Relations on S.C.R. No. 6

The purpose of this resolution is to ratify a proposed amendment to the Constitution of the United States to provide for representation of the District of Columbia in the Congress.

Your Committee finds that the citizens of the District of Columbia have all the obligations of citizenship including the payment of federal taxes but are without a vote in the deliberations of the national government. This situation exists even though the population of the District of Columbia is presently larger than ten states of the union.

Your Committee finds that House Joint Resolution 554 proposing an amendment to the Constitution to provide for representation of the District of Columbia in the Congress needs to be ratified by the legislatures of three-fourths of the states. Your Committee recommends that the Legislature of this State provide its support for such ratification.

Your Committee on Intergovernmental Relations concurs with the intent and purpose of S.C.R. No. 6 and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 444 Intergovernmental Relations on S.C.R. No. 10

The purpose of this resolution is to request Congress to exempt the State of Hawaii from the multi-lingual requirements of Title III of the Voting Rights Act as amended in 1975.

Your Committee finds that the experience of the 1976 and 1978 elections indicates that the printing of voter information forms and ballots in foreign languages is a financial burden on the State, especially when the cost-effectiveness ratio of such assistance is very low. Hawaii's state and county governments expended more than \$500,000 to provide the required multi-lingual assistance in the 1976 elections and similar expenditures were made in the 1978 elections and statistics compiled by the Office of the Lieutenant Governor reveal that only 191 persons requested language ballots in the 1976 elections and 184 requests were made in the 1978 elections.

Your Committee on Intergovernmental Relations concurs with the intent and purpose of S.C.R. No. 10 and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 445 Judiciary on S.B. No. 10

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of article II, section 7 to which conformance is addressed by this bill reads as follows:

"RESIGNATION FROM PUBLIC OFFICE

Section 7. Any elected public officer shall resign from that office before being eligible as a candidate for another public office, if the term of the office sought begins before the end of the term of the office held."

Legislation is necessary to implement this constitutional section to establish deadlines and effective dates for resignations to properly interrelate this mandate with the general election laws.

Your Committee amended S.B. No. 10 in the form of S.D. 1 to accomplish these purposes. The form of S.D. 1 generally follows the concepts of the Florida "resign to run" statute which sustained a successful constitutional challenge in the Supreme Court of Florida in the case of State Ex Rel. Davis v. Adams, 238 So.2d 415.

In a subsequent case, a three-judge federal panel decided in Stack v. Adams, 315 F.Supp. 1295, (N.D. Fla.), that the Florida statute was valid against a challenge on First Amendment grounds as well as against a due process and equal protection attack. However, the court further decided that the statute by requiring a state official to submit a resignation to run for federal office conflicted with the U.S. Constitution provision which established qualifications for representatives in Congress (Art. I, Sec. 2, Clause 2).

Mr. Justice Black of the U.S. Supreme Court, sitting as a single justice for a stay in Davis v. Ward, 400 U.S. 1203, upheld the three-judge court decision.

The specific infirmity of the Florida statute, the requirement of an actual filing of resignation before being eligible for Federal office, does not appear in S.D. 1. S.D. 1 does not require any additional acts other than filing nomination papers. This might be acceptable under the decisions mentioned above. See Barry vs. District of Columbia Bd. of Elections, 448 F.Supp. 1249 (D.C. 1978).

However, in an abundance of caution and to conform to the thinking of a majority of your Committee, S.D. 1 has been amended to remove all reference to federal office qualifications.

"The Constitution of the United States, Article I, Section 2, Clause 2 (Code [Sec.] 1-103) provides the sole and exclusive qualifications which must be met by a candidate for election to the United States House of Representatives." See Paulding County v. City of Hiram, 240 S.E.2d 70 (1977); Davis v. Adams, 400 U.S. 1203, 91 S.Ct. 1, 27 L.Ed.2d 20 (1970); Stack v. Adams, D.C., 315 F.Supp. 1295 (1970); State ex rel. Pickrell v. Senner, 92 Ariz. 243, 375 P.2d 728 (1962); State ex rel. Santini v. Swackhamer, Nev. 521 P.2d 568 (1974).

With the removal of the federal provisions there is no question that S.B. No. 10, S.D. 2 sustains the challenges of First Amendment, due process and equal protection problems.

Several states have adopted constitutional provisions or enacted statutes similar to S.B. No. 10, S.D. 2 providing that a person who holds a state office shall not be eligible for any other state office during the term of office to which that person has been elected.

The constitutionality of such "resign to run" laws have been unsuccessfully challenged as they apply to state and county offices. Deeb v. Adams, 315 F.Supp. 1299, D.C. Fla. (1970); Morial v. Judiciary Com'n of State of La., 565 F.2d 295 (1977); Perry v. St. Pierre, 518 F.2d 184 (2d Cir. 1975).

In Deeb, supra, a state senator who sought to qualify as a candidate for another state office challenged the constitutionality of the Florida law. The court held that the required resignation was not violative of the rights of freedom of speech and expression, equal protection or due process.

In Barry, supra, the court noted that the language in the Florida statute which made the announced resignation "effective not later than the date upon which he would assume office, if elected to the office to which he seeks to qualify," distinguished that statute from the ambit of the ruling of that case. S.B. No. 10, S.D. 1 provides in parallel and with even greater flexibility that "all resignations . . . shall become effective on the first day of the term of the office which the resigning public officer is seeking, or when the office he has resigned has been filled, or the day specified by him, whichever comes first."

Your Committee is aware that compelling state interests must be identified. First of all, one compelling state interest in this matter is to maximize continuity of a person in office so that no elected office in the State will be emptied by the operation of the Constitutional amendment to article II, section 7. Barry v. District of Columbia Bd. of Elections, 448 F.Supp. 1249 at 1253 (1978).

Secondly, it is the public policy of this State that an elective office shall be filled by election rather than by appointment by the governor. Patterson v. Burns, 327 F.Supp. 745 (D.C. Haw. 1971), and see also, Act 174, Session Laws of the State of Hawaii (1971) which was enacted as a result of the aforementioned case.

Thirdly, a state has an interest in preventing a state official from using the prestige or power of his office to further his political ambitions. By imposing a resign to run

restriction, the public is better protected from an abuse of power by a public official whether successful or not who is seeking another office. Such a restriction has been upheld as a reasonable means of protecting a state's interest. Morial v. Judiciary Com'n of State of La., 565 F.2d 295 (1977); Stack v. Adams, supra.

A final compelling state interest for this bill is firmly established by the voters who ratified article II, section 7. The State is not an impersonal entity, it is personified in the people. Standing Committee Report No. 72 of the Constitutional Convention said:

"The voters should not be saddled with an elected public official who no longer wishes to fulfill the duties to which he was elected but will do so only if he fails to win his election for another office. This is not fair to the voters who elected him to serve a full term and is a violation of the public trust."

In short, this final state interest is addressed in protection of the right of the voters. After all, all elected public officers must consider themselves as serving in the pleasure and interest of the electorate.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 10, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 10, S.D. 2.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 446 Judiciary on S.B. No. 271

The purpose of this bill is to exempt minors from the prompt complaint requirement. This would extend greater protection to minors and other incompetents who are victims of sexual offenses.

At the present time, Sec. 707-740, Hawaii Revised Statutes, precludes prosecution of sexual offenses where the alleged victim is less than sixteen years old or otherwise incompetent, unless a complaint is made within a month after a parent, guardian, or other competent person specially interested in the victim learns of the offense.

While the prompt complaint requirement may serve a useful purpose for an adult, such a requirement when applied to minors or other incompetents often causes grave injustices and allows serious sexual offenses to be immune from prosecution.

S.B. No. 271 rectifies this situation by exempting all minors from the one month complaint requirement.

Testimony was heard from the Women's Legislative Coalition, the State Commission on the Status of Women and the Maui Prosecutor's Office, in support of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 271 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 447 Ways and Means on S.B. No. 49

The purpose of this bill as received by your Committee is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978 relating to a judicial salary commission.

Your Committee finds that the judicial salary commission is unnecessary since the Constitution still requires judicial salaries to be set by the legislature, and the commission's function is solely advisory. Creation of the judicial salary commission would only create more red tape and another layer of bureaucracy. Your Committee finds that the legislature can set judicial salaries through the legislative process based on testimony at public hearings, and a commission would only duplicate this process.

Your Committee has amended this bill by deleting the provisions of section 2 establishing a judicial salary commission and instead proposes an amendment to Article VI, section 3, deleting the mandate for the commission and amending the language in sections 1, 3, and 4 to conform to the new section 2.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 49, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 49, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Yim, Anderson and Yee.

SCRep. 448 Ways and Means on S.B. No. 51

The purpose of this bill is to implement the constitutional amendments proposed by the Constitutional Convention of 1978 and adopted by the electorate relating to the judicial selection commission by providing for a commission, consisting of 9 members, pursuant to Article VI, section 4, of the Constitution, with initial appointments under Article XVIII, section 5. The bill also provides for disqualification of attorney and nonattorney members of the commission appearing in proceedings, or where the member's firm or employer is appearing, before any judicial nominee.

Your Committee received testimony from the judiciary recommending passage of this bill.

Your Committee has amended this bill by:

- (1) Making certain nonsubstantive technical and grammatical changes.
- (2) Deleting the appropriation in section 4 which is unnecessary since it will be included in the judiciary budget and inserting a new section 4 on the effect of underscoring in the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 51, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 51, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Yim and Yee.

SCRep. 449 Ways and Means on S.B. No. 436

The purpose of this bill is to authorize the establishment of a deferred compensation plan for public officers and employees of the State and counties.

Deferred compensation is a plan whereby employees authorize their employer to defer a portion of their gross pay before taxes and pay these moneys to them upon retirement, when they would most likely be subject to a lower tax burden. These deferred moneys are not taxed until the employees actually receive them. The bill provides for the deferral of federal, but not state, taxes. Participation is strictly voluntary, and the employer makes no contribution to the plan. Deferred compensation plans would not affect already existing retirement plans or social security benefits, but would provide an additional income to participating officers and employees when they retire.

Deferred compensation for the public sector is a relatively recent phenomenon and has become, in recent years, an increasingly popular "non-cost" fringe benefit offered to public employees in other states. Mr. Donald Botelho, Chairman of the Conference of Civil Service Commissioners and Personnel Directors, submitted testimony recommending passage of this bill.

Your Committee finds that a deferred compensation plan for public officers and employees will have direct benefits to the State by reducing the federal tax burden upon employees, thus reducing the flow of state moneys to the federal government and retaining them in the local economy and by generating additional state tax revenues from investments.

Your Committee has amended this bill by making certain nonsubstantive grammatical and technical changes and by providing a new section 88- on page 4 of the bill to make it clear that the implementation and administrative costs of the plan shall be borne by the plan's beneficiaries and not by the State or counties.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 436, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 436, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Yim and Yee.

SCRep. 450 (Majority) Ways and Means on S.B. No. 552

The purpose of this bill is to increase the amount of the bond which the State or county may require of a concessionaire on public property to equal four instead of two months' rental.

Your Committee is in agreement with the findings of the Committee on Government Operations and Efficiency regarding this bill as expressed in Senate Standing Committee Report No. 160.

Your Committee has made technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 552, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 552, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Yim and Yee. Senator Anderson did not concur.

SCRep. 451 Ways and Means on S.B. No. 678

The purpose of this bill is to repeal portions of the law governing expenditure of funds in the state highway fund that are no longer applicable, to clarify portions of this law that are ambiguous, and to repeal the provision authorizing state highway funds for the use of the interdepartmental control commission.

Your Committee finds that the statutory authority governing expenditures out of the state highway fund is contained in section 248-9, Hawaii Revised Statutes, providing that moneys in the state highway fund be expended according to certain priorities. The department of transportation testified that the payments covered by subsection (a) relating to payment of interest on the principal of county bonds issued for highway purposes prior to January 1, 1945, and subsection (b) relating to the payment of interest of the principal of highway revenue bonds issued pursuant to Act 249, Session Laws of Hawaii 1955, are no longer required, since all of the county bonds have matured and the highway revenue bonds were refunded in 1967.

The department also noted that subsection (c) has been amended many times and that some of the language of this subsection is ambiguous, and other portions have been superseded. The department also testified that there is a question regarding the necessity for this section since expenditures from the fund now require appropriations or authorizations from the legislature which supersedes this section (see chapter 37, Hawaii Revised Statutes).

Your Committee finds that there should be statutory authority governing the expenditure of funds from the state highway fund, as provided in this bill, which would permit expenditures for (1) maintenance, (2) acquisition, planning, design, construction and reconstruction of the state highway system and bikeways, and (3) reimbursement to the general fund for interest on and principal of general obligation bonds where such bonds are designated to be reimbursable out of the special fund.

Your Committee further finds that section 248-11, Hawaii Revised Statutes, which authorizes state highway funds for the interdepartmental transportation control commission is no longer needed and should be repealed.

Your Committee has amended this bill by making certain nonsubstantive changes and by adding a new section 3 to indicate the effect of the underscoring and bracketing in the bill and by renumbering section 3 as section 4.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 678, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 678, S.D. 1.

Signed by all members of the Committee except Senators Hara, Yim and Yee.

SCRep. 452 Ways and Means on S.B. No. 984

The purpose of this bill is to amend prior appropriations made for facilities at Hilo Hospital.

This bill would allow, in addition to existing authorized uses of the appropriated funds, expenditure of the appropriated funds for items necessary to implement the project, including specific authorization for specific facilities required to meet the health care needs of the communities served by Hilo Hospital. These items include design, land acquisition, tenant relocation, helipad, parking facilities, and psychiatric facilities.

Your Committee has amended the bill to correct the reference to the appropriation being amended, in addition to nonsubstantive technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 984, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 984, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Yim, Anderson and Yee.

SCRep. 453 Ways and Means on S.B. No. 1537

The purpose of this bill is to amend prior appropriations to the Children's Hospital to reflect the merger of the Children's Hospital with Kapiolani Hospital.

Your Committee finds that due to the combination of Children's Hospital and Kapiolani Hospital into the Kapiolani Children's Medical Center and the relocation of the children's facility, prior appropriations for Children's Hospital cannot be released for their intended uses, due to technical interpretation of the appropriations language. This bill would make it possible for such funds to be released for the children's facility, in fulfillment of legislative intent.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1537 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Abercrombie, Carpenter, Hara and Yee.

SCRep. 454 Ways and Means on S.B. No. 1540

The purpose of this bill is to require the department of health, when considering future purchases of equipment, to study the possible cost savings of leasing versus outright purchases of such equipment.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1540, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 455 Ways and Means on S.B. No. 1594

The purpose of this bill is to amend chapter 342, Hawaii Revised Statutes, to make it consistent with the requirements of the Clean Air Act Amendments of 1977 P.L. 95-95, amending Section 110(a)(2)(K) of the Clean Air Act by allowing the establishment of reasonable fees to implement and enforce permits and variances under the part relating to air pollution.

Your Committee has amended this bill by making nonsubstantive, technical amendments and by correcting the reference to the Clean Air Act and its amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1594, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1594, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Soares.

SCRep. 456 Human Resources on S.B. No. 744

The purpose of this bill is to increase the State's recruitment flexibility by: (1) amending Chapter 76-16 to permit contracting of persons to perform services certified by the Director of Personnel Services as essential to the public interest; (2) amending Chapter 76 to add a new section which permits appointing authorities, with approval of the Director, to pay travel and transportation expenses for the purpose of enhancing recruitment of persons retained by contract; (3) amending Chapter 77-16 to permit appointing authorities, with approval of the Director, to provide perquisites for the purpose of enhancing such recruitment; and, (4) amending Chapter 77 to add a new section which permits appointing authorities to provide a monetary recruitment incentive, with approval of the Director; provided that this recruitment incentive shall be an amount equal to one month's salary, to be paid in monthly installments over an agreed period of time.

Your Committee finds that the State encounters recruitment difficulties for certain positions which are essential to public needs, particularly in the area of medical services. These difficulties are due in part to Hawaii's limited labor market. Further, civil service laws do not provide adequate recruitment flexibility to alleviate these difficulties, thus restricting the State's ability to compete for persons with the requisite skills and qualifications. This

bill authorizes recruitment incentives (in the form of travel and transportation expenses, perquisites and monetary recruitment incentives) and a "qualified" exemption from civil service which would permit the contracting of persons to perform services essential to the needs of the public.

Your Committee also finds that this bill permits the contracting of persons to perform essential services; provided, that persons to fill civil service positions which normally provide such services are difficult to obtain and recruitment to fill such positions is being conducted on a continuous basis. Further, the duration of such contracts shall not exceed two years and persons employed shall possess the appropriate minimum qualification requirements. Your Committee feels that these provisions will insure that qualified persons in the State's labor market do not suffer a loss of employment opportunity by allowing the contracting of persons for certain positions.

Your Committee further finds that this bill authorizes appointing authorities to provide a monetary recruitment incentive; provided, that this recruitment incentive shall be an amount equal to one month's salary at the first step of the appropriate salary range and such incentive may be paid in monthly installments over an agreed period of time; in the event the contract is terminated prior to the total payment of the recruitment incentive the unpaid balance shall be forfeited; and, the recruitment incentive will not be used in the computation of cash payments for overtime work.

Your Committee has amended this bill to provide that the monetary recruitment incentive shall be an amount not to exceed one month's salary computed at the first step of the appropriate salary range. Your Committee feels that in some cases, an amount less than one month's salary would be sufficient to serve the intent and purpose of this bill.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 744, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 744, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 457 (Majority) Human Resources on S.B. No. 1400

The purpose of this bill is to amend the workers' compensation law to specifically exclude (A) an injury when an employee was engaged in a personal transaction during nonpaid time away from the employer's premises, or (B) an injury when an employee was voluntarily attending or participating in a recreational or social activity, or both, during the employee's own time notwithstanding that the employer may have voluntarily contributed to the activity.

Your Committee, in reviewing the scope of the workers' compensation law as to its limits of inclusion, has examined two points:

1. How the law has been construed by the courts, and
2. How employment has been defined by the legislature.

1. Construction by the courts

There have been two major decisions rendered by the Hawaii Supreme Court relating to the construction of the workers' compensation law in regards to the scope of "employment" under the law.

In Silva vs. Kaiwika Milling Co., Ltd. (1918) the Territorial Supreme Court expressed in its opinion that workers' compensation laws, which had been recently set up at that time, were to serve a humanitarian purpose and were to be broadly construed as to their applicability.

The opinion of the court also shed some light as to when an injury was to be considered as employment-related. Under examination was the phrase "arising out of and in the course of the employment":

"An injury may be received in the course of the employment and still have no causal connection with it so that it can be said to arise out of the employment. But it is difficult to conceive of an injury arising 'out of' and not 'in the course of' the employment. The importance of distinguishing between these terms arises from the fact that each represents an element essential to, but not authorizing, the recovery of compensation without the presence of the element represented by the other. In other words, even though

the injury occurred 'in the course of' the employment, if it did not arise 'out of' the employment there can be no recovery. The words 'out of' point to the origin and cause of the accident or injury, the words 'in the course of' to the time and place and circumstances under which the accident or injury takes place. "The words 'out of' involve the idea that the accident is in some manner due to the employment. It is conceded by complainant that there must be a causal connection between the conditions under which the employee worked and the resulting injury. While the appearance need not have been foreseen or anticipated it must appear after the event to have its origin in a risk connected with the employment and to have flowed from that source as a rational consequence. The statutory requirement should not be narrowly construed, however. An employee must be allowed some latitude for the exercise of his own judgement as to when and how he can best serve the interests of his employer."

A later case, Evanson vs. University of Hawaii (1971), expanded upon the base established by the court in Silva. The court in its opinion said:

"Workmen's compensation laws were enacted as a humanitarian measure to create legal liability without relation to fault. They represent a socially enforced bargain: the employee giving up his right to recover common law damages from the employer in exchange for the certainty of a statutory award for all work-connected injuries. Since liability is made dependent on a nexus to the job, the essential prerequisite for coverage under workmen's compensation acts is the existence of an employer-employee relationship.", and

"Finally, it should be emphasized that in construing coverage under workmen's compensation laws courts ought to guard against narrow constructions which exclude an employee from the benefits conferred by the act. Workmen's compensation laws are highly remedial in character. Their paramount purpose is to provide compensation for an employee for all work-related injuries, regardless of negligence and proximate cause."

Essentially, the court has said that the workers' compensation law should be liberally construed as to the interpretation of what is to be considered work-related, and has firmly maintained that employment is the test by which applicability of the workers' compensation law is considered.

2. Definition of employment

The definition of "employment" under current law is as follows:

"Employment" means any service performed by an individual for another person under any contract of hire or apprenticeship, express or implied, oral or written lawfully or unlawfully entered into. It includes service of public officials, whether elected or under any appointment or contract of hire express or implied.' (Section 386-1, HRS)

The committee report which dealt with that language when it first became law stated:

"The definition of employee is phrased so as to make it clear that coverage extends to all public employees and to all private employees, except those who are not hired for the purpose of the employer's trade, business, occupation, or profession." (SCR 334, S.B. 334, Act 116 SLH 1963)

The key element in the definition of employment is the relationship of one person to another through the performance of services by one person for the other under contract of hire.

Your Committee affirms the broad construction of the workers' compensation law pertaining to scope of employment as found in the two Supreme Court opinions cited above as being within the intent of the Legislature, but finds that clarification is needed in the law as to what is not related to employment. Testimony received by Your Committee indicates that there has been considerable confusion about the meaning and scope of the law which has led to the curtailment of activities not related to employment. Fear of adverse rulings, whether well-founded or unfounded, as to coverage of individuals under the workers' compensation law has been the cause of this. Employers have been very reluctant to sponsor athletic teams composed in whole or in part of their employees, to contribute to off-hour, or offworksites recreational activities, or to allow use of facilities for recreational purposes by employees, even though such activities are found by this Committee to be strictly recreational, and not workrelated. Employers feel that by doing so they will incur liability under the workers' compensation law. Your Committee finds that clarification will help to alleviate the problems that have arisen from this confusion.

Your Committee further finds that the proposed provision contained in this bill does not

adequately set the standard for those activities of an individual which do not relate to the performance of services under contract for another person and should not be included in the scope of the law, and has amended this bill accordingly. Deleted from this bill is language outlining specific instances of activities to be excluded from coverage, such as personal transactions during nonpaid time away from the employer's premises, and voluntary participation in recreational or social activities on nonpaid time notwithstanding that the employer may have voluntarily contributed to the activity. New language has been placed in this bill which states that activities "unrelated to the fulfillment of an employee's responsibilities in an employee-employer relationship" are to be excluded from coverage while away from the employer's premises. This new language will allow individual cases to be decided on the facts of the case as they relate to the basic intent of the Workers' Compensation law.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. 1400, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1400, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Yamasaki and Abercrombie did not concur.

SCRep. 458 Human Resources on S.B. No. 1414

The purpose of this bill is to establish an agency shop provision in the State's collective bargaining law to allow exclusive representatives in the public sector to collect, through payroll deductions, an amount equivalent to regular union dues from nonmember employees in the appropriate bargaining units.

Your Committee finds that the "agency shop" may be defined as a requirement that employees in a collective bargaining unit who do not belong to the union that is the exclusive representative (bargaining agent) for that unit shall pay to the union a service charge that is equal to the regular dues payable by union members.

Your Committee further finds that the "agency shop" may take different forms. In Abood v. Detroit Board of Education (U.S. Supreme Court, May, 1977) the exclusive representative and the Detroit Board of Education entered into a collective bargaining agreement which provided, among other things, an agency shop clause requiring every teacher who had not become a union member by a given date to pay the union a service charge equal to the regular dues required of union members. Any teacher who failed to meet this obligation was subject to discharge, but no teacher was required to join the union. Subject to a qualification discussed further on in this report, the Supreme Court held that the agency shop clause in Abood, which is similar to other agency shop clauses in the private sector, is constitutional.

In Abood, opponents of the agency shop marshalled a long array of arguments in their effort to prove that arrangement illegal. Most of their arguments stemmed from the general proposition that public employees are different from private employees, and that the fact that the agency shop, as well as the union shop, was held constitutional years ago, should not affect the result insofar as public employees are concerned. The Court rejected those arguments. The Court stated, in part:

"[11-13] Public Employees are not basically different from private employees; on the whole, they have the same sort of skills, the same needs, and seek the same advantages. 'The uniqueness of public employment is not in the employees nor in the work performed; the uniqueness is the special character of the employer.'"

The fact that collective bargaining in the public sector must be in part political because legislatures must appropriate money to fund the agreements does not constitute a significant difference from the private sector. The Court declared, in part:

"[14] There can be no quarrel with the truism that because public employee unions attempt to influence governmental policymaking, their activities--and the views of members who disagree with them--may be properly termed political."

"The differences between public and private sector collective bargaining simply do not translate into differences in First Amendment rights. Even those commentators most acutely aware of the distinctive nature of public sector bargaining and most seriously concerned with its policy implications agree that "[t]he union security issue in the public sector...is fundamentally the same issue...as in the private sector.... No special dimension results from the fact that a union represents public rather than private employees."

The Court does, however, impose a qualification on how the service charge paid by nonmembers may be spent, which is the same qualification that it imposes on agency shop

fees in the private sector. The qualification is that if a nonmember is opposed to the expenditure by the union and of its funds for support of political candidates or political or ideological views, and specifically expresses his opposition thereto, the nonmember is entitled to a rebate of a pro rata share of his service fee. The Court does not, however, define a dividing line in this case. It states, in part:

"[23] There will, of course, be difficult problems in drawing lines between collective bargaining activities, for which contributions may be compelled, and ideological activities unrelated to collective bargaining, for which such compulsion is prohibited."

The reason for that last statement is that the Supreme Court remanded the case to the Michigan court from which it arose, to draw the dividing line. The following statement should be noted in trying to determine what the Court might subsequently approve as being related to collective bargaining:

"33. The appellants' complaints also alleged that the union carries on various 'social activities' which are not open to nonmembers. It is unclear to what extent such activities fall outside the Union's duties as exclusive representative or involve constitutionally protected rights of association."

After due consideration, your Committee finds that this bill in its present form contains several omissions of key phrases in the current statutes, erroneous provisions, and typographical errors which cloud its original intent. Your Committee has amended this bill so that it accurately and specifically accomplishes its original intent and purpose and by making certain nonsubstantive technical and grammatical changes.

Your Committee further finds that in its amended form, this bill establishes an "agency shop" provision in the State's Collective Bargaining Law as follows:

(1) Current statutes permit the employer to deduct "reasonable service fees" from the payroll of every employee (member and nonmember) in the appropriate bargaining unit. In its amended form, this bill makes certain distinctions between payroll deductions as applied to members and nonmembers as follows:

1. In the case of members, the employer shall deduct the regular dues as specified by the exclusive representative; provided that the employer shall make this deduction only upon written authorization from the member, such authorization being executed any time after the member joins an employee organization.

2. In the case of nonmembers, the employer shall deduct an amount equivalent to the regular dues as specified by the exclusive representative; provided that such deduction shall be made only in the case of an exclusive representative which provides for a procedure for determining the amount of a refund to any employee who demands the return of any part of the deduction which represents the employee's pro rata share of expenditures made by the exclusive representative for activities of a political and ideological nature unrelated to terms and conditions of employment; provided further that if a nonmember employee objects to the amount to be refunded, he may petition the Hawaii Public Employment Relations Board (HPERB) for review thereof within fifteen days after notice of the refund has been received.

(2) In light of the foregoing distinctions between member and nonmember payroll deductions and their respective applications, your Committee feels that the phrase "service fees" is no longer operative. This bill, in its original and amended form, deletes all references to "service fees". Instead of "service fees", the phrases "regular dues" (in the case of members) and "amount equivalent to regular dues" (in the case of nonmembers) are used. This provision obviates the expensive and time-consuming procedure wherein the exclusive representative justifies the reasonableness of service fees to HPERB.

(3) Your Committee notes that the Abood agency shop clause differs from the provisions in this amended bill in that this amended measure does not provide for the discharge of a nonmember employee for failure to pay the amount equivalent to regular dues.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1414, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1414, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 459 Human Resources on S.B. No. 1330

The purpose of this bill is to amend Section 347-4 (Vocational Rehabilitation of Blind)

to incorporate the funding and service provisions of the Federal Vocational Rehabilitation Law.

Your Committee finds that the current definition of "vocational rehabilitation" under this Section is not consistent with the Federal Vocational Rehabilitation law" or with Chapter 348 (relating to vocational rehabilitation of other physically and mentally handicapped persons). The Federal law includes as vocational rehabilitation services several services not included in current State statutes. These services include reader services, rehabilitation teaching services, orientation and mobility services for the blind, sensory and other technological aids and devices, postemployment services, services to family members and "other goods and services which can reasonably be expected to benefit a handicapped individual in terms of employability". The Federal law further establishes standards related to quality of services and personnel providing services.

This bill conforms current State Vocational Rehabilitation statutes to Federal Vocational Rehabilitation legislation by incorporating references to the Federal Vocational Rehabilitation Act of 1978, the Randolph-Sheppard Act and Chapter 348. Inclusion of the Randolph-Sheppard Act designates the Department of Social Services and Housing to be the State licensing agency for vending stands as required under the Federal Act and enables the Department to administer the program. The reference to Chapter 348 establishes a relationship between other current vocational rehabilitation services for the physically and mentally handicapped persons and the provisions of this bill.

Your Committee has amended this bill as follows:

- 1) The DSSH "shall" provide services to the blind and visually handicapped persons in accordance with the provisions of this section (as opposed to "may provide" under current statute).
- 2) On line 9, after the phrase "chapter 348", provisos regarding available funding are made to enable the Department to maintain its fiscal integrity while providing services required under law.
- 3) The dates of federal legislation have been deleted, as these dates may require future amendments should federal laws be amended.
- 4) Technical amendments have been made without changing the substance of this bill.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1330, as amended herein, and recommends that it pass Second Reading in the form attached hereto, as S.B. No. 1330, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 460 Human Resources on S.B. No. 1390

The purpose of this bill is to add real estate brokers and salesmen who are remunerated solely by commission to the list of individuals who are excluded from coverage under the Temporary Disability Insurance law.

Your Committee finds that the services which are excluded from the T.D.I. law are generally those that do not fit the definition of regular employment, such as work for a voluntary beneficiary association, work on a fishing boat on a casual basis, work for a foreign country, and for work of an independent nature, such as insurance sales on a commission basis.

Your Committee further finds that real estate brokers and agents who work for a real estate broker solely on a commission basis are similar in nature to insurance agents who work on a commission basis in that they generally work independently. Also, real estate brokers and agents working solely on a commission basis are currently excluded from the provisions of the Hawaii Employment Security law (Unemployment Insurance Compensation) and the Hawaii Prepaid Health Care Act; and exclusion from the T.D.I. law, as provided in this bill, would be consistent with these practices.

Nonsubstantive, technical amendments have been made to this bill to bring it into conformance with Act 80, SLH 1978.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 1390, as amended herein, and recommends that it pass Second Reading in the form attached hereto, as S.B. No. 1390, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 461 Ways and Means on S.B. No. 25

The purposes of this bill are to require that (1) by agreement of a majority of the counties, the counties shall enact ordinances providing for uniform policies and methods of real property assessment; and (2) the responsibility for preparation and maintenance of real property tax maps shall not be transferred to the counties but be retained by the State.

Your Committee is doubtful of the necessity for enacting a statutory provision requiring county ordinances establishing uniform assessment policies and methods since such a provision merely duplicates the existing constitutional requirement that "...for a period of eleven years following such ratification, the policies and methods of assessing real property taxes shall be uniform throughout the State and shall be established by agreement of a majority of the political subdivisions. Each such political subdivision shall enact such uniform policies and methods of assessment by ordinance before the effective date of this amendment..." However, aside from questioning the need for this provision, your Committee has no objection to its enactment.

Your Committee is of the opinion, however, that the amendment to the bill which states that "The functions, powers, and duties of the counties in the taxation of real property shall not include the preparation and providing of maps" is in direct conflict with Article VIII, section 3, of the Constitution which provides that "...all functions, powers and duties relating to the taxation of real property shall be exercised exclusively by the counties..." (emphasis added). Your Committee believes that the amendment and references in Con-Con Standing Committee Report No. 42 such as "It is felt that in order to have complete authority over their county finances the real property tax function should be given to the counties.", and "By placing total responsibility for the real property tax program with the counties, public confusion as to who or which level of government is responsible for the real property tax bite would be eliminated.", (emphasis added) are clear indications of the Convention's intention to transfer the total program, including tax maps, to the counties.

Your Committee also notes that the title of S.B. No. 25, S.D. 1, refers to "real property tax assessment" and "Article XVIII" of the Constitution. Your Committee is of the opinion that this title may not be sufficiently broad to permit the addition of specific provisions relating to real property tax maps.

In light of these concerns your Committee on Ways and Means has amended S.B. No. 25, S.D. 1, by deleting section 3 which provides that the responsibility for real property tax maps shall be retained by the State and has accordingly renumbered sections 4 and 5 as sections 3 and 4. Section 1 of the bill has been amended to state that the purpose of the Act is to implement the provisions of Article XVIII relating to uniform policies and methods of assessment in order to accurately reflect the substance of the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 25, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 25, S.D. 2.

Signed by all members of the Committee except Senators Carpenter, Hara, Yamasaki, Young, Soares and Yee.

SCRep. 462 Ways and Means on S.B. No. 153

The purposes of this bill are to (1) increase the amount the department of Hawaiian home lands is authorized to borrow from the government agencies or private lending institutions by raising the State's liability, contingent or otherwise, from its present \$18,000,000 to \$21,000,000; and (2) to specify that the State's liability, contingent or otherwise, either on moneys borrowed by the department or on departmental guarantees of loans made to lessees from government agencies or private lending institutions for repair, maintenance, purchase, and erection of a dwelling and related improvements shall be subject to the \$21,000,000 ceiling.

Your Committee has made nonsubstantive, technical changes to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 153, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 153, S.D. 2.

Signed by all members of the Committee except Senators Hara, Yamasaki, Young and Yee.

SCRep. 463 Ways and Means on S.B. No. 179

The purpose of this bill is to facilitate the payment of witness expenses by transferring the responsibility of determining the amount due a witness for service and transportation from the clerk of the court to the attorney who subpoenaed the witness.

This bill requires the judiciary to provide the certificate book to provide for uniformity.

This bill requires the judiciary to pay from its imprest funds such witness fees which are due with reimbursement to the judiciary and requires the department of budget and finance to prepare allotment requests and maintain records as well as to include amounts required for witness fees in its budget request. This bill provides that the law on the regulation of petty cash funds, section 40-84, Hawaii Revised Statutes, does not apply to imprest funds set aside by the judiciary for witness fees.

Your Committee has made nonsubstantive technical amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 179, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 179, S.D. 2.

Signed by all members of the Committee except Senators Hara, Yamasaki, Young and Yee.

SCRep. 464 Ways and Means on S.B. No. 209

The purpose of this bill is to limit no-fault insurance for public assistance recipients.

Your Committee finds the bill would provide insurance on only one vehicle per welfare unit unless the department of social services and housing deems that another vehicle is necessary for medical or employment purposes. It would also require that the vehicle cannot be less than two years old or cannot be more than \$2,000 according to the Kelly blue book or owner's equity.

Your Committee has made minor nonsubstantive technical changes to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 209, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 209, S.D. 2.

Signed by all members of the Committee except Senators Hara, Yamasaki, Young Soares and Yee.

SCRep. 465 Ways and Means on S.B. No. 399

The purpose of this bill is to correct certain errors in section 321-15.6, Hawaii Revised Statutes.

In subsection (c) of section 321-15.6, Hawaii Revised Statutes, the department of health is changed to department of social services and housing and adult family boarding home is changed to care home. Both amendments merely correct technical errors and reflect the true purpose of the section.

Paragraph (4) of subsection (b) of that section is also amended by changing the word "rules" to "rule".

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 399, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Hara, Yamasaki, Young and Yee.

SCRep. 466 Ways and Means on S.B. No. 481

The purpose of this bill is to reduce the amount of compensation awarded under the criminal injuries compensation law, if the commission finds that a dead or injured victim was partially responsible for such death or injury, using a comparative negligence standard.

Your Committee has made nonsubstantive technical amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No.

481, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 481, S.D. 2.

Signed by all members of the Committee except Senators Hara, Young, Anderson and Yee.

SCRep. 467 Ways and Means on S.B. No. 538

The purpose of this bill is to increase the annual grant to the Hawaii Wing, Civil Air Patrol, from \$75,000 to \$100,000; provide that not less than \$3,000 be allocated to each Civil Air Patrol unit in the State instead of limiting the minimum grant only to each unit outside the city and county of Honolulu; and expressly declare legislative intent and establish procedures for the grant of moneys to the Civil Air Patrol to conform with the requirements of Article VII, section 4, of the Constitution of the State of Hawaii.

Your Committee finds that the increase in the annual grant amount and the provision for more equitable distribution to each unit of the Civil Air Patrol are necessary. Your Committee also agrees with the legislative intent and procedures for the granting of moneys incorporated into the bill by the Committee on Transportation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 538, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Hara, Young, Anderson and Yee.

SCRep. 468 Ways and Means on S.B. No. 618

The purpose of this bill is to allow the attorney general, in addition to the public prosecutor or county attorney, to prosecute all criminal actions in violation of the Hawaii Employment Security Law, its rules, and regulations.

Your Committee finds that several sections of the Hawaii Employment Security Law provide for penalties such as fines and imprisonments for criminal actions in violation of the law and its regulations by claimants, employers, or employees or members of the department of labor and industrial relations.

At present, such penalties are imposed through prosecution by the public prosecutor or county attorney of the political subdivision in which the employer has a place of business or the violator resides. Prosecution under this system has generally been successful, but it has also received low priority for prosecution, which in turn has limited the scope and timeliness of such actions. Allowing a deputy attorney general to be responsible for handling employment security law prosecutions would aid in ensuring that violations would receive proper attention.

Your Committee has amended this bill by underlining new statutory material where such underlining has been omitted.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 618, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 618, S.D. 2.

Signed by all members of the Committee except Senators Hara, Yamasaki, Young, Anderson, Soares and Yee.

SCRep. 469 Ways and Means on S.B. No. 659

The purpose of this bill is to raise the examination fee of the Board of Pharmacy from \$37.50 to \$50.

Your Committee agrees with the increase in fees, necessitated by the increased costs of administration of the pharmacist examination.

Your Committee has made nonsubstantive technical amendments to the bill and renumbered section 2 as section 3 and added a new section indicating the effect of underscoring and bracketing in the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 659, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 659, S.D. 1.

Signed by all members of the Committee except Senators Hara, Young, Anderson and Yee.

SCRep. 470 Ways and Means on S.B. No. 835

The purpose of this bill is to amend the law on authorization and form and content of revenue bonds by making clear that the municipality (governing body) authorizing the bonds is the municipality issuing such bonds and by eliminating the provision that the interest rates of such bonds shall not exceed six per cent per year.

Your Committee has amended this bill by making certain nonsubstantive, technical amendments and by deleting the printing direction to the revisor of statutes as unnecessary under section 23G-16.5, Hawaii Revised Statutes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 835, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 835, S.D. 1.

Signed by all members of the Committee except Senators Hara, Yamasaki, Young and Yee.

SCRep. 471 Ways and Means on S.B. No. 1742

The purpose of this bill is to appropriate funds for adjustments authorized by chapter 89C for state officers and employees excluded from collective bargaining.

Part I provides funds to program planning, analysis, budgeting (BUF 101), to be allotted by the director of finance, for adjustments authorized by chapter 89C for state officers and employees (other than those covered in Part II of the bill) excluded from collective bargaining. Part II provides funds to administrative director services (JUD 201), to be allotted by the administrative director of the courts, for adjustments authorized by chapter 89C to be made by the chief justice for officers and employees excluded from collective bargaining. Part III provides for payment of cost adjustments by federal, special, or other funds, depending upon the funding source of an employee's compensation.

Your Committee has made nonsubstantive, technical amendments and has amended parts I and II of this bill by providing for a nominal appropriation of \$1 from each fund for each fiscal year pending the finalization of present negotiations.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1742, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1742, S.D. 1.

Signed by all members of the Committee except Senators Hara, Young, Anderson and Yee.

SCRep. 472 Ways and Means on S.B. No. 1758

The purpose of this bill is to extend the time limitation on the State's right to sue for deficiencies in the disposal of abandoned vessels, from one to five years, to authorize the department of transportation to assess and collect all expenses incurred incidental to taking custody and disposing of an abandoned vessel, to clarify provisions relating to the disposition of proceeds derived from the sale of abandoned vessels, and to extend the time limitation within which an owner of an abandoned vessel which is sold may recover the balance, if any, from the sale from one to five years.

Your Committee agrees with the findings of the Committee on Transportation which are set forth in Senate Standing Committee Report No. 329.

Your Committee has made minor technical nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1758, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1758, S.D. 2.

Signed by all members of the Committee except Senators Hara and Yee.

SCRep. 473 (Majority) Consumer Protection and Commerce on S.B. No. 86

The purpose of this bill is to allow the marketing of multi-peril (packaged policies) by insurance companies for property and casualty insurance. An advantage of multi-peril or (packaged policies) are premium savings to policyholders due to lower expenses involved in packaging different insurance coverages into one policy. Other advantages include only having one policy to cover all property and casualty coverages instead of

having a number of policies, and faster and more efficient claim service.

In the early 1960's, what we now call the "homeowners" policy resulted in a significant savings for the consumer in that one premium covered fire, property coverages, theft and personal liability. It is now estimated that over 90% of our homes in Hawaii now have this policy. Forty-nine states have now adopted legislation allowing insurance companies to extend the benefits of the "homeowners" policy format to the commercial establishment. Hawaii is the only state that has not adopted the multi-peril concept for business.

Opponents claim that "package" policies result in rate discrimination therefore giving preferred customers a better rate at the expense of others. Your Committee has received testimony from the Department of Regulatory Agencies showing that a large volume of commercial insurance is already written at deviated rates. Deviated rates are usually given because of reduced expenses and amount to a 10 and 20% reduction in price. Thus competition among insurers has already resulted in the wide use of deviated or "preferred" rates.

The Committee would like to make clear that this bill does not require "package" policies but does give the buyer a choice of purchasing either the "package" policy or individual policies. In short, the purchase of commercial multi-peril insurance is to be entirely optional.

Your Committee discussed at considerable length whether to require a detailed breakdown of all premiums such as is used today, but concluded that to require the premium to be itemized in detail would ultimately result in more man hours of insurance preparation and a subsequent greater cost to the consumer and would defeat, in part, the purposes, of the multi-peril bill. See letter dated March 1, 1979 from the Department of Regulatory Agencies and attached as exhibit A and incorporated by reference. The Committee has, however, amended this bill to require each insurer to inform prospective purchasers of their right to detailed premium breakdowns and to provide further that this right can only be waived in writing by the prospective insured. The notification and waiver can be placed on the insurance form or associated papers.

Your Committee has also amended this bill to require multi-peril coverage on fire and liability, with the other coverages being optional. The effective date of this bill has also been moved to January 1, 1980, to allow the Department of Regulatory Agencies the necessary preparation time for implementation.

Your Committee has renumbered section 2 as section 3 and inserted a new section 2 indicating the effect of the underscoring and bracketing in the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators O'Connor and Ushijima did not concur.

SCRep. 474 Ways and Means on S.B. No. 17

The purpose of this bill is to establish the tax review commission as required under Article VII, section 3, of the state constitution.

Testimony was heard from the department of taxation and the Hawaii Tax Foundation in favor of this bill. Your Committee finds that this bill will implement the provisions of the state constitution as recently amended and that an overall periodic review of the taxes of this State should be undertaken.

Your Committee has amended the bill to provide that the commission shall be comprised of five members, placed in the department of taxation for administrative purposes, and may enter into contracts with consultants and hire employees who shall be exempt from the provisions of chapters 76 and 77. The bill has been further amended to provide that the commission shall be appointed on or before July 1, 1979 rather than July 1, 1980, shall meet as necessary rather than for a specific period of time, and shall report its findings and recommendations to the legislature 120 days prior to the convening of the second regular session of the legislature after the members have been appointed.

Section 3 has been amended to provide for an appropriation of \$60,000.

Other minor technical amendments have also been made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 17, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 17, S.D. 1.

Signed by all members of the Committee except Senators Carpenter, Young and Yee.

SCRep. 475 Ways and Means on S.B. No. 31

The purpose of this bill is to replace the term "money payments" as it relates to the public assistance laws of the State with the term "financial assistance".

The amendments of this bill conform present statutes with the language used in Article IX, section 3, of the Constitution of the State of Hawaii which was recently ratified by the electorate.

Your Committee reiterates the fact that this bill does not, in any way, affect the present operations of the State's public assistance program in a substantive manner.

Your Committee has amended this bill by making nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 31, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 31, S.D. 2.

Signed by all members of the Committee except Senators Young and Yee.

SCRep. 476 (Majority) Ways and Means on S.B. No. 53

The purpose of this bill is to create an intermediate appellate court and to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978.

Your Committee agrees with the findings of your Committee on Judiciary in Standing Committee Report No. 134.

Your Committee has amended this bill by changing the salary an associate judge of the intermediate appellate court receives from \$45,000 to \$43,750 to differentiate an associate judge's salary from that of the chief judge of the intermediate appellate court. The provisions concerning certiorari have been clarified to insure that either party may raise questions concerning the intermediate appellate court's failure or refusal to certify an appeal or reserved question or withdrawal of a certification in an application for certiorari. In order to provide the supreme court with more flexibility, your Committee has amended section 602-5(5), Hawaii Revised Statutes, concerning the ability of the supreme court to order the intermediate court to immediately forward appellate matters the supreme court deems to require immediate final appellate disposition. This amendment provides that the order may issue because the case is of such imperative public importance or involves such a fundamental question of public policy as to justify deviation from the normal appellate procedure. The amendment deletes the provisions allowing such order to issue in urgent resolution of a fundamental public policy in order to preserve essential public order, or to prevent irretrievable damage to essential governmental process or public morals. Finally, your Committee has amended this bill by making nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 53, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 53, S.D. 2.

Signed by all members of the Committee except Senators Carpenter, Hara, Young and Yee.
Senators Kawasaki and Yim did not concur.

SCRep. 477 Ways and Means on S.B. No. 108

The purpose of this bill is to provide permanent status for the Hawaii natural energy institute (HNEI) which shall be the lead organization in the State for natural energy research, development and demonstration efforts.

Your Committee has amended this bill to provide that the board of regents, as the governing body of the University of Hawaii, rather than the president, shall have the authority to appoint the institute's director and advisory committee. Your Committee has deleted the listing of possible special programs and their probable facilities. However, your Committee notes that the types of projects it envisions the institute undertaking include the following

from the listing: a sea test facility for ocean thermal energy conversion; a geothermal energy application center for ongoing research, development, and application programs in geothermal energy; a wind energy applications center with satellite stations; a biomass energy center; and a solar energy center.

Your Committee has also concluded that as a matter of policy the staffing pattern of most agencies should not be enshrined in the law. Accordingly, your Committee has amended this bill to eliminate the portion dealing with permanent staffing. However, it is your Committee's intent that the institute be fully funded in order to carry out its mission. Your Committee has also amended this bill to delete the provision which would allow present institute staff to bypass civil service requirements but has authorized the director to appoint the necessary staff without regards to the state personnel law.

Your Committee has made other minor technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 108, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 108, S.D. 2.

Signed by all members of the Committee except Senators Carpenter, Young and Yee.

SCRep. 478 Ways and Means on S.B. No. 400

The purpose of this bill is to statutorily increase certain fees charged by the department of health for the issuance of a certified copy of a vital record and for the search of files and records.

The department of health has initiated this bill and justified the increases because the present statutory fees are not sufficient to cover the appropriate expenses involved. The Committee on Health has agreed with the department and reported the bill without amendment.

Your Committee, however, has amended the bill, although agreeing with the department's contention that the fees charged should cover the appropriate expenses. Your Committee has deleted all mention of set fees in section 338-14, Hawaii Revised Statutes, which is the statute being amended. Instead, your Committee has provided that the department establish reasonable fees in accordance with the Administrative Procedure Act. Specifically, the amendments made to the bill as reported to your Committee are:

- (1) In subsection (a) of section 338-14--Require the department to establish "reasonable" fees for certified copies of certificates or corrections of items on certificates instead of establishing a statutory maximum of \$3;
- (2) In subsection (b) of the same section--Allow the department to prescribe "reasonable" fees for searches of files instead of establishing a statutory maximum of \$5 per hour or fraction thereof; and
- (3) Adding a new subsection (d) which requires establishment of fees pursuant to the Administrative Procedure Act and requiring the amount to be sufficient to cover the expenses involved.

Your Committee has made these amendments to allow the department to establish fees sufficient to cover its expenses with respect to these matters without necessity of requesting statutory amendment. Your Committee, however, does not intend the department to establish onerous or unreasonable fees or utilize this new authority for profit generation.

In addition, your Committee has made other technical amendments, added a new section 2 stating the effect of the brackets and underscoring in the bill, and renumbered the old section 2 to section 3.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 400, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 400, S.D. 1.

Signed by all members of the Committee except Senators Carpenter, Young and Yee.

SCRep. 479 Ways and Means on S.B. No. 586

The purpose of this bill is to restore and provide for the issuance and sale of \$10,000,000 principal amount of general obligation bonds originally authorized by the council of the city and county of Honolulu.

The department of budget, city and county of Honolulu, states that the \$10,000,000 authorization was irrevocably lost when on December 15, 1975, the city and county retired \$10,000,000 principal amount of general obligation bond anticipation notes, series 1975, dated October 1, 1975, maturing December 15, 1975, from the general fund out of real property tax proceeds rather than from the proceeds of the sale of general obligation bonds. Section 47-2.2, Hawaii Revised Statutes, provides that to the extent that the principal of outstanding general obligation bond anticipation notes is paid from moneys other than the proceeds from the sale of general obligation bonds, the aggregate of bonds authorized and unissued shall be reduced by the amount of notes paid in such manner.

As a consequence of the city's action, it was necessary to reduce the amount of bonds authorized by \$10,000,000 and classify this amount as "other receivables" in the same bond fund, pending adjustment by reinstatement.

Testimony was received from representatives of the city that retirement of the general obligation bond anticipation notes from the general fund out of real property tax proceeds was a "mistake".

The city's bond counsel, Wood and Dawson, has advised the city that the \$10,000,000 reduction in bond authorization was final and could not be reinstated except by remedial legislation by the state legislature.

Your Committee is at a loss as to how the city could make a "mistake" of the magnitude involved particularly when the consequence of its action was clearly apparent. However, your Committee believes that it would serve the public interest if on this occasion a legislative reprieve were granted.

This bill should not be viewed as a precedent to encourage future "mistakes". Rather, the city's present plight should be considered a warning to the counties to exercise prudent fiscal practices.

Your Committee has made nonsubstantive, technical amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 586, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 586, S.D. 1.

Signed by all members of the Committee except Senators Carpenter, Young and Yee.

SCRep. 480 Ways and Means on S.B. No. 663

The purpose of this bill is to amend the general assistance law to (1) allow the department of social services and housing to require certification of the disability of a general assistance applicant by a licensed physician designated by the department; (2) state that a person with children shall be eligible for general assistance if the children are dependent and in the person's home; and (3) allow a person with dependent children or a person who is at least fifty-five years old to be eligible if that person is employed but continues to meet the income and resource requirements of general assistance.

The amendment allowing certification of disability by a designated physician is made to correct some deficiencies and abuses encountered by the department of social services and housing. Currently, an applicant for general assistance based on disability may obtain certification of that disability from the physician of the applicant's choice. The department of social services and housing has testified that, in some instances, the certification form is filled out incompletely or vaguely and that evidence of physician-patient collusion to obtain benefits illegally exists. Thus, this amendment seeks to correct these abuses and deficiencies.

The other amendments of the bill are for clarification purposes and to conform the language to the present statutes.

Your Committee has made nonsubstantive, technical amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 663, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 663, S.D. 2.

Signed by all members of the Committee except Senators Young and Yee.

SCRep. 481 Ways and Means on S.B. No. 1115

The purpose of this bill is to require the insurance commissioner to publish annually

a list of all motor vehicle insurers and their annual premium rates.

Your Committee is in agreement that this bill will be beneficial to consumers when shopping for motor vehicle insurance.

Your Committee has amended this bill by eliminating the insurance commissioner's option to publish the list of insurers and their rates in a publication other than a newspaper and by adding a lapsing of funds provision to the appropriation clause.

Your Committee is of belief that the most effective and efficient means by which the public might be informed is through publication of the comparative listing in a newspaper of general circulation throughout the State. Printing of a booklet would involve not only distributional problems but also additional costs and a problem of informing the public of the booklet's availability.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1115, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1115, S.D. 2.

Signed by all members of the Committee except Senators Carpenter, Young and Yee.

SCRep. 482 Ways and Means on S.B. No. 1373

The purpose of this bill is to appropriate additional monies to the Department of Education thereby allowing the Department of Education to balance its operating budget for the fiscal year 1978-79.

Your Committee finds that after recent reexamination of the program accounts by the Department of Education, the shortage may be reduced from \$1.8 million to \$2.

In light of these revised estimates, your Committee on Ways and Means has amended S.B. No. 1373 to reduce the requested appropriation from \$1.8 million to \$2. Appropriations requested for EDN 105 Regular Instruction and EDN 307 Physical Plant Operations and Maintenance were reduced from \$1,000,000 to \$1 and from \$800,000 to \$1, respectively.

For clarification, your Committee has made some grammatical changes that do not affect the substance of the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1373, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1373, S.D. 1.

Signed by all members of the Committee except Senators Carpenter, Toyofuku, Yim, Young and Yee.

SCRep. 483 Ways and Means on S.B. No. 1389

The purpose of this bill is to extend the lapsing date of Act 82, Session Laws of Hawaii 1973, from June 30, 1979 to June 30, 1981.

Act 82, Session Laws of Hawaii 1973, appropriated \$4.1 million to the Kauai Task Force for the purpose of planning and developing sound agricultural and other economic alternatives to fill the void created by the closing of the Kilauea Sugar Company and the last pineapple cannery on Kauai. This bill would extend the lapsing date of the Act to allow the Kauai Task Force to continue its study of agricultural development projects which may be beneficial to Kauai's future growth and development.

Your Committee has amended the bill to provide that the lapsing date is extended to June 30, 1980 rather than June 30, 1981. Your Committee is in accord with the intent of the constitutional amendment providing for lapsing of all prior appropriations on June 30, 1980, unless otherwise provided. The constitutional amendments of 1978 require that the State abide by new fiscal rules and lapsing of all prior appropriations in 1980 as an integral part of complying with the constitutional mandate.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1389, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1389, S.D. 1.

Signed by all members of the Committee except Senators Carpenter, Young and Yee.

SCRep. 484 Ways and Means on S.B. No. 1483

The purpose of this bill is to allow the Hawaii housing authority to pursue the goal that 25 per cent of the authority's work force be comprised of persons residing in housing projects maintained or operated by the authority. This goal was established by the federal Department of Housing and Urban Development (HUD). Currently, there are some permanent employees who reside in the authority's projects. The majority of these employees are persons employed under the tenant hire program. The tenant hire program was established specifically to accommodate the HUD goal, and is staffed with project residents employed for under 20 hours a week. The department of personnel services, however, has challenged the exemption of these persons from civil service status. The purpose of this bill is to clarify this policy through statutory amendment.

Your Committee is in accord with the purpose of this bill, however it is concerned that an unrestricted exemption may lead to unjustified circumvention of the civil service laws. Accordingly, the bill has been amended to exempt no more than twenty-five per cent of the authority's work force from civil service status. Your Committee has corrected the bill to insert prior amendments to section 76-16 that were missing. Your Committee also has made nonsubstantive, technical changes to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1483, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1483, S.D. 1.

Signed by all members of the Committee except Senators Carpenter, Hara, Young and Yee.

SCRep. 485 Ways and Means on S.B. No. 1546

The purpose of this bill is to amend section 202(a), Hawaiian Homes Commission Act, 1920, as amended. The amendment expands the commission from its present eight members to nine members and provides that one member represent west Hawaii and another member represent east Hawaii.

All public testimonies favored the expansion, and the department of Hawaiian home lands gave its complete support. Testimony indicated that representation on the commission by two members from Hawaii was desirable due to the fact that the two major Hawaiian home land communities on the island are in Keaukaha and Waimea which are widely separated geographically.

Your Committee has amended this bill to more clearly state the areas from Hawaii the members are to be appointed from by changing east Hawaii to the first or second representative districts and by changing west Hawaii to the third or fourth representative districts.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1546, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1546, S.D. 1.

Signed by all members of the Committee except Senators Carpenter, Young and Yee.

SCRep. 486 Ways and Means on S.B. No. 1721

The purpose of this bill is to establish the Hawaii Statehood Celebration Committee which is empowered and required to prepare an overall program for commemorating the twentieth anniversary of the admission of Hawaii into the Union as a State of the United States of America. The bill also appropriates \$25,000 for the purposes of the bill.

Your Committee has amended the bill by designating the office of the governor as the expending agency for the funds appropriated by the bill. In addition, a lapsing clause has been added to the bill in the event the appropriations are not fully depleted by the committee. Your Committee has also made nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1721, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1721, S.D. 2.

Signed by all members of the Committee except Senators Carpenter, Young and Yee.

SCRep. 487 (Majority) Ways and Means on S.B. No. 1764

The purpose of this bill is to transfer the state immigrant services center from its present

administrative location under the state commission on manpower and full employment to be directly under the office of the governor. The bill also proposes to assign two additional functions to the center, that of reviewing and commenting upon grant proposals for immigrant service agencies and that of assisting and coordinating efforts to aid refugees in Hawaii to become adjusted to and productive members of American society.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1764, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Carpenter, Yim, Young and Yee.

Senator Kawasaki did not concur.

SCRep. 488 Ways and Means on S.B. No. 1800

The purpose of this bill is to establish a taxation violations investigation unit within the department of taxation to enforce compliance with the state tax laws and to permit inspection of tax returns by the unit.

Your Committee finds that significant amounts of tax dollars are lost to the State through evasions of state tax laws, and although these laws provide for prosecution of violators, there is no active investigation unit responsible for such prosecution. Your Committee also finds that successful prosecution of top criminal elements is often limited to prosecution for tax violations. The taxation violations investigation unit would meet both of these situations.

Your Committee has amended the bill by:

(1) Providing for a lapsing of funds and an appropriation of \$75,000 in the appropriations section;

(2) Providing that the unit shall consist of 4 persons on page 2, line 13, of the bill; and

(3) Deleting unnecessary language in the section on the effect of underscored material in the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1800, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1800, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Young and Yee.

SCRep. 489 Ways and Means on S.B. No. 3

The purpose of this bill is to make appropriations for capital improvement projects and to authorize the issuance of bonds.

This bill was introduced in short form; your Committee has amended the bill to include project and appropriation details.

Your Committee has provided funds for projects that it believes will adequately meet current statewide capital improvement requirements. Given recent amendments to the State Constitution impacting the debt structure of the State and growing public concern over government finances and the economy, the Committee has provided appropriations taking into consideration fiscal capabilities of the State. Various purposes are accomplished by these appropriations, including facilities for transportation, recreation, education, public health and safety, natural resources, and economic development.

The amendments to the Constitution have effected changes in State and County relationships, specifically in the area of mandated transfers of programs to the counties. For this reason, it is not the intent of your Committee to mandate that any political subdivision undertake new programs or increase the level of services under the existing programs whenever such political subdivision is designated as the expending agency for project appropriations.

The total amount of general obligation bonds authorized to be issued under this bill equals \$10,000,000.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 3, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Young and Yee.

SCRep. 490 Ways and Means on S.B. No. 411

The purpose of this bill is to provide for the retention and administration by the University of Hawaii of all sources and overhead costs included in grants to the university.

Your Committee has amended the bill to limit the income to the research and training revolving fund to 50 per cent of all the income from indirect overhead sources and to place a maximum limit of \$600,000 on the amount which the fund may accrue annually. Your Committee notes that \$60,000 is three times the present annual maximum accrual limit for the fund and for this reason felt it prudent to impose such a maximum limit.

Your Committee further amended the bill by adding "facilitating research and training at the university" to the purposes for which funds deposited in the research and training revolving fund may be expended.

Your Committee has made other nonsubstantive technical changes to the bill including the renumbering of section 3 to section 4 and the adding of a new section 3 setting forth the effect of underscoring and bracketing in the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 411, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 411, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Young and Yee.

SCRep. 491 Judiciary on S.B. No. 1303

The purpose of this bill is to prevent the automatic disqualification of persons who are blind or have any other physical disability from being able to adopt children, by amending section 578-8 pertaining to adoption hearings and investigations.

Section 578-8 is silent as to what factors are determinant of "fitness" in regard to prospective adoptive parents. It is the concern of your Committee however, to ensure that blindness or other physical disability alone shall not disqualify an otherwise "fit" person from adopting children. In determining who is able to adopt a child, the Department of Social Services and Housing shall look to the totality of circumstances surrounding a person's ability to properly care for a child.

Your Committee has accordingly amended section 578-8 on page 2, lines 16 to 18 by the addition of the following phrase:

"however, blindness or other physical disability of the petitioners shall not of itself be determinant of unfitness for purposes of this section."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1303, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 1303, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Mizuguchi, Ushijima, Carroll and Saiki.

SCRep. 492 Ways and Means on S.B. No. 429

The purpose of this bill is to establish standards for purchases of services, grants, and subsidies.

Your Committee finds that support by the legislature of private organizations has increased significantly in recent years, amounting to some \$3.2 million in the current fiscal year. For some time, the legislature has been aware of the problems created by the growing number of requests for public support of private programs ranging from health care to social services to culture and the arts. Many of these programs appear to be worthwhile and in the public interest, but, with limited resources, the legislature has faced the recurring dilemma of trying to determine which programs should be supported and at what levels of support.

Legislative leaders brought this problem to the attention of the 1978 Constitutional Convention. They proposed that additional language be added to the "public purpose clause" of the State Constitution. The result is that Article VII, Section 4, of the State Constitution now requires that "no grant of public money or property shall be made except pursuant to standards provided by law". This bill will provide the standards mandated by the State Constitution.

The term "grant of public money" as used in Article VII, Section 4 of the State Constitution is intended to mean the appropriation of public funds to "private organizations conducting programs which the legislature has determined to be in the public interest". Standing Committee Report No. 66, pp 1415, Constitutional Convention of 1978. Grants, subsidies and purchase of service contracts can be included under this broad definition of grant. An attorney general letter opinion dated February 28, 1979 specifically establishes that Article VII, Section 4 of the State Constitution applies to appropriations made to state agencies for the purpose of purchasing services through contracts with private organizations. Therefore, your Committee finds that Article VII, Section 4 of the State Constitution mandates standards for three types of transfers: grants, subsidies and purchase of service contracts.

This bill defines the kinds of funds, or transfers, to be made available to private recipients or providers. These are purchases of services, grants, and subsidies. They are differentiated according to the purpose for the funding. Purchases of services are made to purchase goods and services to be delivered by a provider to the general public or specified members of the general public. Grants and subsidies are made to stimulate and support activities of recipients which are in accord with specified public purposes.

The bill establishes general conditions for all transfers, including compliance with nondiscrimination laws, applicable licensing and accreditation requirements, and financial disclosure. Procedures are established for the review, analysis and recommendation and appropriation of funds for requests for transfers.

All requests for transfers are to be submitted to the appropriate directors of finance or to the administrative director of the courts in the case of the judiciary. The directors are then required to transmit the requests to an appropriate agency for its review, analysis and recommendation on the costs, effectiveness and the benefits of the proposed transfers. The directors are required to prescribe the forms to be used and to establish policies and guidelines defining the conditions for transfers and the analysis required of requests. Agencies are to prepare a statement of findings and recommendation for each request. Requests which are approved by the agency are incorporated in the budget submitted to the chief executive.

The chief executive must review the analysis of the agency and prepare statements of findings and recommendations for each request for transfer. All requests approved by the chief executive are included in the executive budget submissions to the legislative bodies. A separate report summarizing all requests not included in the executive budget must be submitted to the legislative bodies together with the chief executive's statements of findings and recommendations.

Appropriations by the legislative bodies for transfers not included in the executive budget may be made by separate bills and are to be based on requests reviewed in accordance with the requirements of Sec. -3. A grant or subsidy may be authorized for a period not to exceed two years and is not to be renewed unless the request for renewal is reviewed and the legislative body determines that there is a continuing need and public purpose to be served by the grant or subsidy.

Insofar as budget execution is concerned, the bill establishes the responsibilities of government agencies for making fair and proper allotments, executing contracts in accordance with legislative intent and public purpose and for monitoring and evaluating transfer programs.

To ensure that private requests are given an opportunity to participate in this process and to ensure that they are given timely information on the status of their requests, the bill requires the agency to invite the participation of the requestor in the review process and to provide the requestor with an opportunity to comment on the analysis of the agency. Copies of the statements of findings and recommendations of the agency and the chief executive are to be furnished to the requestor.

Since the bill sets forth a new process for reviewing requests for transfers and substantially changes the manner in which appropriations are made to private recipients and providers, its implementation should be carefully monitored and evaluated. Your Committee has designated the office of the legislative auditor to undertake this responsibility and to submit status reports on its findings to the 1980 and 1981 regular sessions.

Article VII, Section 4 applies to all public funds. This means that all appropriations of public funds must be made in accordance with standards, whether these appropriations are made at the state level or the county level. Inasmuch as the standards contained in this bill are made pursuant to Article VII, Section 4 of the State Constitution, the procedures imposed on the counties are a constitutional rather than a legislative mandate. Moreover, provisions of this bill should not be construed to create a "new program or increase the level of service" within the meaning of Article VIII, Section 5, as the bill is not an attempt

by the state to circumvent its spending limit by transferring state functions to the counties. Standing Committee Report No. 66, pp 13, Constitutional Convention 1978. Therefore, your Committee finds that the state need not share in the cost of county implementation of this bill under Article VIII, Section 5 of the State Constitution.

Based on testimony presented to your Committee, the following amendments to the bill have been made:

1. The definition of "Director has been amended to mean the chief budget officer in the case of the counties (Sec. -1(4))
2. The agencies are required to prepare a list showing which requestors have and have not been selected for funding, and are required to furnish a copy thereof to all requestors.
3. The first sentence of Sec. -5(a) has been changed from the mandatory "shall" to the permissive "may" and has clarified the basis for transfers not included in the executive budget.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 429, S.D. 1 as amended herein and recommends that it pass Third Reading in the form attached hereto as S.B. No. 429, S.D. 2.

Signed by all members of the Committee except Senators Anderson and Yee.

SCRep. 493 Ways and Means on S.B. No. 26

The purpose of this bill is to implement Article VIII, section 5, of the Constitution of the State of Hawaii as amended by the Constitutional Convention of 1978 pertaining to state mandates to the counties.

Under this bill the State is required to share in the cost incurred by the counties for any increase in services in services brought about by a program which was mandated by the legislature.

Your Committee has received testimony regarding the scope of the constitutional mandate. In testimony received from the attorney general it was indicated that the requirement of the amendment and this bill concerning state mandates was vague and could possibly even require that the state share in the cost of increased law enforcement expenses of the counties in the event that the legislature should enact new penal laws.

Your Committee finds that such a result would not be consistent with the intent of the constitutional convention of 1978 in enacting the amendment to Article VIII, section 5, of the Constitution of the State of Hawaii.

Accordingly, your Committee has amended this bill as follows:

- 1) The State shall pay a share of the cost of a state mandate, the amount of which shall be determined by the legislature.
- 2) The requirement that the state pay to each local government the full cost of any state mandate for the first full year of the state mandate has been deleted.
- 3) A "state mandate" is defined as any legislative action which directly requires a local government to establish or expand its activities in such a way as to necessitate additional direct expenditures by the local government.
- 4) The director of finance shall collect and maintain information concerning state mandates.
- 5) The requirement that the director of finance compile information regarding previous state mandates has been deleted.
- 6) The requirement that the director of finance review and report on prior state mandates has been deleted.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 26, S.D. 1, as amended herein and recommends that pass Third Reading in the form attached hereto as S.B. No. 26, S.D. 2.

Signed by all members of the Committee except Senators Toyofuku, Young and Yee.

SCRep. 494 Ways and Means on S.B. No. 19

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to

the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of article VII, section 5 to which conformance is addressed by this bill reads as follows:

"General fund expenditures for any fiscal year shall not exceed the State's current general fund revenues and unencumbered cash balances, except when the governor publicly declares the public health, safety or welfare is threatened as provided by law."

Your Committee has amended S.B. No. 19, S.D. 1 to require the director to notify the legislature of any reduction of estimates or allotments and to give reasons for the reduction. The phrase "cash owed to the general fund" has been substituted for "cash borrowed" in order to clearly indicate that general obligation bond funds are not contemplated as "cash".

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. 19, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 19, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Toyofuku, Young, Anderson and Yee.

SCRep. 495 Ways and Means on S.B. No. 20

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article VII, Section 6, to which such conformance is addressed by this bill reads as follows:

"Whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature in the next regular session shall provide for a tax refund or tax credit to the taxpayers of the State, as provided by law."

Your Committee has amended S.B. No. 20, S.D. 1 by requiring the State comptroller to submit a report to the legislature and the director of taxation whenever the State general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenue for each of the two fiscal years. Your Committee believes that the State comptroller is the appropriate authority to be responsible for submitting a report when excess general fund balances occur.

Your Committee deleted the requirement of a "comprehensive" explanation and plan for distribution since disposition of excess revenues will be defined by section 231-3, Hawaii Revised Statutes. The State comptroller's report need only provide an explanation of how a surplus occurred.

For clarification and consistency, your Committee has amended section 3 to specify that the director of taxation is to receive a report of any excess in general fund balances from the State comptroller.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 20, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 20, S.D. 2.

Signed by all members of the Committee except Senators Toyofuku, Young, Anderson and Yee.

SCRep. 496 Ways and Means on S.B. No. 77

The purpose of this bill is to authorize the department of agriculture to manage, operate, and coordinate the agricultural park program and to establish a revolving fund for purposes directly related to the operation of the system.

Your Committee finds that a clear delineation of authority and responsibility is necessary because of the current confusion over whether the department of land and natural resources has jurisdiction over state lands of which agricultural parks are a part.

In addition to providing the department of agriculture with necessary powers, there is established a revolving fund to permit the department of agriculture to operate the agricultural park system within its own revenue and expenditure constraints.

Your Committee has amended this bill by reducing the appropriation amount from \$1,000,000 to \$250,000.

Your Committee has reduced the initial funding level of the revolving fund with the intent that further appropriations might be made to the fund after the program's progress can be evaluated and its need better determined.

Your Committee has also omitted the word "established" on line 8 on page 4 of this bill from the phrase "established agricultural parks".

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 77, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 77, S.D. 2.

Signed by all members of the Committee except Senators Chong, Toyofuku, Young, Anderson, Soares and Yee.

SCRep. 497 Ways and Means on S.B. No. 117

The purpose of this bill is to conform the Hawaii Revised Statutes to amendments to the Hawaii State Constitution ratified by the electorate in 1978. The specific language of Article X, section 2, to which such conformance is addressed by this bill, reads as follows:

"There shall be a board of education composed of members who shall be elected in a nonpartisan manner by qualified voters, as provided by law, from two at-large school board districts. The first school board district shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second school board district shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. Each at-large school board district shall be divided into departmental school districts, as may be provided by law. There shall be at least one member residing in each departmental school district."

Your Committee has amended the bill to require the election of board of education members during the primary rather than the general election. An earlier election gives board members more time to prepare for their office. Conforming amendments were made in other sections of the bill.

Your Committee has further amended the bill by:

(1) Changing the boundaries of the third, fourth, and fifth, departmental school districts on Oahu to conform more closely to administrative districts.

(2) Requiring the Maui school advisory council district to have one member from Molokai and one from Lanai; and

In addition, your Committee has amended the bill by making nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 117, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 117, S.D. 3.

Signed by all members of the Committee except Senators Toyofuku, Young, Anderson and Yee.

SCRep. 498 Ways and Means on S.B. No. 181

The purpose of this bill is to support increased efforts by prosecuting attorneys' offices to prosecute career criminals through organizational and operational techniques that have proven effective in selected counties in other states. Your Committee finds that a substantial amount of serious crime is committed by a relatively small number of multiple and repeat felony offenders, commonly known as career criminals. S.B. No. 181, S.D. 1 is an attempt to alleviate this ever increasing problem.

Your Committee heard testimony from the Attorney General, who endorsed the permanent establishment of a career criminal prosecution program. However, he indicated that establishing statutory criteria and exceptions would preclude the flexibility each county prosecutor needs to meet his individual county problems. S.B. No. 181, S.D. 1 has been amended to allow the Attorney General to establish criteria, exceptions and policies.

The section giving preference, in setting the trial calendar, to career criminal cases was deleted as this is a function of the judiciary.

Your Committee deleted the section which provided for the dissemination of information from the criminal justice information data center to the program, because this is best

accomplished administratively.

The section restricting the communications to the trier of fact that the defendant was characterized as a "career criminal" was deemed unnecessary.

Since the Hawaii Career Criminal Prosecution Program is substantially equivalent to the program specified in S.B. No. 181, S.D. 1, as amended, and because the Attorney General's office is currently seeking funds to continue the existing Hawaii Career Criminal Prosecution Program, the section regarding appropriations was deleted.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 181, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 181, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Toyofuku, Young, Anderson, Soares and Yee.

SCRep. 499 Ways and Means on S.B. No. 402

The purpose of this bill is to appropriate \$1,517,267.07 out of the general revenues of the State, not otherwise appropriated, for purposes expressed in the title of the bill.

Your Committee has amended S.B. No. 402 to delete various appropriation items and has added a new section 1 amending the Hawaii Revised Statutes.

The deleted amounts which are for reimbursement items claimed by the city and county of Honolulu for the portion of improvement district costs attributable to certain religious, charitable, education, scientific, literary, or other benevolent organizations.

The purpose of the amendment adding a new section 1 is to eliminate the present exemption from improvement assessments granted to religious, charitable, educational, scientific, literary, and other benevolent organizations which own land exempted by law from payment of property taxes.

The bill, as amended, appropriates \$1,300,798.28 out of the general revenues of the State, not otherwise appropriated, for purposes expressed in the title of the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 402, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 402, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Toyofuku, Young, Ajifu, Anderson and Yee.

SCRep. 500 Ways and Means on S.B. No. 601

The purpose of this bill is to allow the Advisory Commission on Manpower and Full Employment to employ personnel for which federal funds are available under the Federal Vocational Act of 1963, as amended. Personnel employed through this manner shall be exempt from the civil service and public employees compensation laws.

Your Committee has amended the bill to designate the Department of Personnel Services as the authority to set salaries. It is your Committee's intent that salaries of all board and commission staff members be centrally determined by an impartial agency.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 601, S.D. 1, as amended herein and recommends that it pass Third Reading in the form attached hereto as S.B. No. 601, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Toyofuku, Young and Yee.

SCRep. 501 Ways and Means on S.B. No. 754

The purpose of this bill is to eliminate the provision that a judge who chooses to terminate membership under this Chapter shall not serve after age 65; to permit a judge or elective officer to terminate membership in the State employees retirement system when the member's allowance reaches 75 per cent of his average final compensation; and, to permit those

members who have chosen to retire under the provisions of Section 88-61 (Termination of Membership) of the State's Pension and Retirement Systems Law to be reinstated in the system upon application thereto.

Your Committee finds that the provision under the current law which prohibits a judge from serving after age 65 if he chooses to terminate membership under this Chapter serves no useful purpose.

Your Committee finds that the age of a person has no rational relationship to that person's capability or qualification to serve as a judge. Moreover, this bill will provide an additional incentive for retired judges with extensive experience to make their services available should they be appointed to the newly created intermediate appellate court or the supreme court.

Current law provides for termination of membership if a judge or elective officer gives notice within six months after the date when his allowance reaches 75 per cent of his average final compensation. This bill would eliminate this six month time limit.

This bill would also provide an opportunity for any person who has terminated his membership in the system under the provisions of Section 88-61, and who is still in active service, to be reinstated in the system upon application thereto.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 754, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Chong, Hara, Toyofuku, Young, Anderson and Yee.

SCRep. 502 (Majority) Ways and Means on S.B. No. 839

The purpose of this bill is to provide that the land located at Hale Mohalu, Pearl City, Oahu, shall be used for, but is not limited to, the care and treatment of patients afflicted with Hansen's disease.

Your Committee heard considerable testimony on the bill. The Department of Health, the Hale Mohalu Ohana, Dr. Robert M. Worth of the University of Hawaii School of Public Health as well as several religious organizations gave testimony during the hearing on the bill.

Your Committee was impressed with the testimony of Dr. Robert M. Worth of the University of Hawaii School of Public Health. Dr. Worth, who has been involved with leprosy patient care research for over 22 years, testified that the State of Hawaii could save approximately \$100,000.00 of Department of Health and \$360,000.00 of Department of Social Services operating funds annually by providing a care home facility for visiting Kalaupapa patients instead of continuing its present policy of requiring every Kalaupapa patient who visits Honolulu for any medical reason to reside in the high cost, highlystaffed Leahi facility. Dr. Worth testified that the plan offered by the Hale Mohalu Ohana would generally provide the type of care home services required.

Your Committee believes that the recommendations made by Dr. Worth warrant serious consideration and review. If, as Dr. Worth contends, the State can save nearly \$500,000.00 in operating funds per year by providing a care home facility at Hale Mohalu instead of continuing the present policy of the Department of Health, the Legislature should make a commitment to funding the construction of such a facility at Hale Mohalu.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 839, S.D. 1 and recommends that it be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Toyofuku, Young, Anderson and Yee.
Senator Kawasaki did not concur.

SCRep. 503 Ways and Means on S.B. No. 1292

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The pertinent language of Article II to which such conformance is addressed by this bill reads as follows:

"CAMPAIGN FUND, SPENDING LIMIT"

Section 5. The legislature shall establish a campaign fund to be used for partial public

financing of campaigns for public offices of the State and its political subdivisions, as provided by law. The legislature shall provide a limit on the campaign spending of candidates.

CAMPAIGN CONTRIBUTIONS LIMITS

Section 6. Limitations on campaign contributions to any political candidate, or authorized political campaign organization for such candidate, for any elective office within the State shall be provided by law."

Your Committee finds that this bill in its present draft poses numerous problems of both a constitutional and functional nature. The bill also has significant fiscal implications from both a revenue and expenditure perspective. Your Committee, however, is of the belief that the State Constitution's mandate is clear that the legislature must enact laws governing campaign spending and contributions as well as provide for partial public financing of campaigns. For this reason, your Committee recommends passage of this bill and its transmittal to the house, solely that it might serve as a vehicle for continued consideration of the task with which the legislature has been charged.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1292, S.D. 1 and recommends that it be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Toyofuku, Young, Anderson and Yee.

SCRep. 504 Ways and Means on S.B. No. 1611

The purpose of this bill is to amend section 572-7, Hawaii Revised Statutes, by requiring that every applicant for a marriage license be required to receive serologic testing for rubella.

Your Committee is in agreement with the Committee on Health's addition of two new sections to the bill. One section appropriates \$50,000 to be expended by the department of health in carrying out the required testing. The other amendment provides that the health department shall be responsible for the follow-up and immunization of those women found to be susceptible to rubella.

Your Committee has made nonsubstantive, technical amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1611, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1611, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Toyofuku, Young and Yee.

SCRep. 505 Ways and Means on S.B. No. 1771

The purpose of this bill is to amend the definition of the term "developmental disabilities"; to change the name of the agency responsible for coordinating services to developmentally disabled persons from the State Planning and Advisory Council on Developmental Disabilities to the State Planning Council; and to revise the makeup of the Council and requirements for membership on the council.

Your Committee received testimony in support of the bill. In addition there was discussion regarding the requirement of having 25-members on the Council especially in view of the fact that in the past a quorum was hard to obtain. Your Committee amended the bill to provide for a 17-member Council which on a practical basis would be better able to carry out the functions because a quorum would be easier to obtain. Reservations were also expressed on the wording of Section 333E- where the Council would be given authority over all public and private requests for state or federal funds. Your Committee found that the function of the Council is to advise and review all services and programs for the developmentally disabled and not to supersede any state agency in any way over its functions, powers and duties prescribed by law. Your Committee has also found that P.L. 95-602, does mandate review by the Council of all federal grant proposals. Your Committee finds that this section is unnecessary as it is already covered by federal statutes and has amended the bill accordingly.

In addition, your Committee found the need to specify submission of the council's annual report before the Legislature convenes to enable the Legislature to properly assess the needs of the council with regard to preparing all budgetary requests. The bill has been amended to meet this concern.

Your Committee has corrected spelling and typographical errors found in this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1771, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1771, S.D. 2.

Signed by all members of the Committee except Senators Toyofuku, Young, Anderson and Yee.

SCRep. 506 Ways and Means on S.B. No. 1329

The purpose of this bill is to: (1) to conform current vocational rehabilitation statutes with the federal vocational rehabilitation law; and (2) permit the department of social services and housing to administer the program within funding ceilings established by appropriations, federal allocations, grants, and funds available from other sources.

Your Committee finds that the state laws relating to vocational rehabilitation have not been updated since their enactment in 1955; however, the federal law has been amended in recent years. Statutory changes must be made in order to continue the State's eligibility for federal funds which are currently matched on a 20 per cent state and 90 per cent federal basis.

Your Committee further finds that present vocational rehabilitation statutes have resulted in suits against the Department of Social Services and Housing. Such suits, if upheld, will require the department to provide maintenance to any client upon request.

This bill provides for continued state eligibility for federal funds by conforming present statutes to the federal law. This bill further provides that the Department of Social Services and Housing may administer the program according to such funds as stated under section 348-1 (State vocational rehabilitation; policy and scope).

Your Committee has amended this bill as follows:

(1) Language was deleted which made it mandatory that the Legislature appropriate money for vocational rehabilitation.

(2) The mandatory use of available funds for initiating projects by the Department of Social Services and Housing was eliminated and is now permissive.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1329, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. no. 1329, S.D. 2.

Signed by all members of the Committee except Senators Carpenter, Yim, Young and Yee.

SCRep. 507 Judiciary on S.B. No. 283

The purpose of this bill is to further define the jurisdiction of the small claims court, and to increase the jurisdictional limit of that court.

Testimony was heard from Mr. Lester Cingcade, the Administrative Director of the Courts, in support of the bill. He felt the provisions allowing the court to grant monetary and equitable relief subject to certain limitations and prohibiting class actions were appropriate to the purposes of the small claims court. These provisions would ensure that the small claims court remains available as a tribunal for the trial of matters too small to merit the expense of formal proceedings.

S.B. No. 283 was amended to reduce the jurisdictional limit of the court to \$600. While the old \$300 limit has been made obsolete by inflation, your Committee felt the increase to \$600 was an adequate raise at the present time.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 283, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 283, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Takitani.

SCRep. 508 Judiciary on S.B. No. 393

The purpose of this bill is to provide for uniform treatment of misdemeanor and felony

offenders in obtaining expungement orders after obtaining dismissals of charges in deferred acceptance of guilty pleas (DAGP) cases.

Under the present wording of subsection (e), section 853-1, Hawaii Revised Statutes, a misdemeanor offender is treated less favorably than a felony offender in the relief he may obtain on dismissal of charges in a DAGP case. This results from the present language requiring retention of the misdemeanor records at the county police department. Accordingly, the misdemeanant cannot obtain records where entitled under section 831-3.2, Hawaii Revised Statutes, because the records are not forwarded to the attorney general as would be the case with a similarly situated felon. S.B. No. 393 will eliminate this illogical distinction and bring DAGP dismissal cases into conformity with the relief given all other non-conviction cases under section 831-3.2, Hawaii Revised Statutes.

S.B. No. 393 also provides for retroactive relief for those DAGP misdemeanor cases granted expungement orders under the present wording of subsection (e). Pursuant to section 3 of the bill, records in those cases must be transmitted to the attorney general. The attorney general will on receipt of the records, return all fingerprints and photographs to entitled persons granted expungement orders.

Your Committee amended S.B. No. 393 to provide that these records not be expunged for one year following the discharge of the defendant, although application may be made immediately upon discharge.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 393, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 393, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 509 Judiciary on S.B. No. 554

The purpose of this bill is to restate the rape law, sections 707-730, 707-731, and 707-732, Hawaii Revised Statutes, in sex-neutral terms. Under prior law relating to the crime of rape, the defendant had to be a male and the victim had to be a female.

A recent state circuit court decision, *State v. Sasahara*, (Criminal No. 51251, July 14, 1978), held that the statutory rape law was unconstitutional since there was no reasonable basis to distinguish between male and female. Your Committee realizes there may be grounds for a similar attack on the other sections of the rape law. S.B. No. 554 would eliminate any attack of constitutionality pertaining to the sex of the offender.

S.B. No. 554 was amended to further eliminate any reference to gender by substituting "the person" for "he" wherever it appeared in the three sections.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 554, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 554, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 510 Judiciary on S.B. No. 587

The purpose of this bill is to provide a means for abating prostitution, the display of indecent matter, the promotion of pornography, and other offenses covered by parts I and II of chapter 712.

S.B. No. 587 in its original form was taken nearly *verbatim* from sections 11225 to 11235 of the California Penal Code. In essence, it will allow a civil injunction proceeding to be brought against the places of business which continually allow these offenses to occur, so as to constitute a nuisance.

Procedurally, a suit is allowed to be filed seeking abatement. When the existence of such nuisance is shown by verified petition or affidavit, the court is allowed to issue a temporary writ and the matter is given preference for immediate hearing. If the existence of nuisance is proven at such hearing, the court issues an order of abatement and may close the premises down for up to one year. At this point, if the owner of the premises continues the nuisance in violation of the order of abatement, he may be found in criminal contempt. If the owner is not in contempt, he is allowed to appear and pay all costs incurred in the closing of the place, and if the court is satisfied of his good faith, it may order the cancellation of the order of abatement.

Additionally, S.B. No. 587 makes all costs imposed against any owner of a place used for nuisance purposes to be a lien on the place, and requires the owner to notify the lessee that his lease will be revoked if the nuisance is continued.

Your Committee has reviewed S.B. No. 587 and has made the following changes:

1. The language of S.B. No. 587 has been generally modified to conform its language with the Hawaii Penal Code and to direct its operation toward the abatement of offenses collected in parts I and II of chapter 712 -- namely, prostitution, promoting pornography and like offenses.
2. The prosecutors or prosecuting attorneys for the various counties have been included among those who may bring the suit.
3. The contempt provision has been moved to section 710-1077 making it a criminal contempt with the penalty raised from a minimum fine of \$400 and a maximum of \$5,000, or imprisonment for one to six months, or both.
4. The definition of "person" has been deleted as the same is already provided by section 701-118(7).
5. The provision requiring notice of revocation by the owner to the lessee has been amended to require the court to give appropriate consideration to such notice and other actions taken by the owner to terminate the nuisance in any criminal contempt action that may be brought against the owner.

Your Committee notes that the provision in S.B. No. 587 requiring the owner to give notice to the lessee regarding the revocation of the lease is not part of the California law. We agree with the desirability of placing a burden on the owner to take appropriate action against the lessee to abate the nuisance. However, a categorical mandate requiring notice of revocation may raise complex legal problems regarding impairment of contractual obligations, particularly where a chain of subleases are involved.

Accordingly, your Committee has amended this provision by S.B. No. 587, S.D. 1 to require the court when deliberating upon criminal contempt by the owner to give appropriate consideration to such notice and other actions as the owner may or may not have taken to abate the nuisance. Such a treatment prevents the imposition of penalty against the owner who may not have technically given notice but who, under peculiar circumstances, may have taken other reasonable and possibly more effective measures to abate the nuisance, and thereby acted in demonstrated good faith.

It should also be noted that S.B. No. 587 does not address itself to the other offenses covered by chapter 712; most particularly, gambling and drug offenses. S.B. No. 587 in its original form did not include these offenses and your Committee did not have the opportunity to receive testimony in that regard. Further study and experience under S.B. No. 587, S.D. 1 if enacted may dictate the expansion of the scope of this act to cover all offenses addressed by chapter 712.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 587, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 587, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 511 Judiciary on S.B. No. 1051

The purpose of this bill is to recognize attorneys, secretaries and others who perform services for the Disciplinary Board of the Hawaii Supreme Court as holding positions exempt from civil service.

The Disciplinary Board of the Hawaii Supreme Court was established pursuant to Rule 16 of the Supreme Court. The Board is comprised of lawyers and non-lawyers and is responsible for overseeing the investigation of ethics complaints filed against Hawaii attorneys. In addition, the Board, through its staff, takes part in continuing legal education courses for Hawaii lawyers and speaks to any interested members of the public or groups who have a desire to learn about the attorney discipline system in Hawaii. Hawaii is one of only twenty-one states to have non-lawyers on its disciplinary board. The presence of non-lawyers on the attorney disciplinary board insures that complaints against lawyers are investigated thoroughly and fairly and that the public interest is safeguarded.

The Disciplinary Board is an entirely self-supporting organization established by the

Hawaii Supreme Court to investigate ethics complaints filed against Hawaii attorneys. The Supreme Court assesses each Hawaii lawyer an annual license fee for the privilege of practicing law. These license fees are used solely and exclusively for the operation of the Disciplinary Board. No state or federal funds are used in the program and none are needed.

At present there are four staff positions of the Disciplinary Board: Chief Disciplinary Counsel, Assistant Disciplinary Counsel, and two legal secretaries. They currently are designated as "independent contractors" which means that each of them must pay 4% excise tax each month to the State of Hawaii. However, the staff does not have any employment benefits. This bill, by recognizing those staff positions as exempt from civil service, will pave the way for the Supreme Court to provide the needed employment benefits to the staff of the Disciplinary Board without any cost to the public. No state or federal funds will be used for the program. The Supreme Court will be increasing the lawyers' license fees to provide the additional funds which will be necessary for providing employment benefits to the staff. By this legislation, the Supreme Court will be able to place those license fees into a special fund from which will be taken the amounts necessary to pay into the various state employment benefit plans.

It is important that the attorneys and secretaries who comprise the staff of the Disciplinary Board are designated as exempt from civil service. The staff often receives highly confidential information concerning a member of the public or an attorney. If any of the staff would attempt to violate the Supreme Court's rule of confidentiality and misuse that confidential information, the Supreme Court should have the right to discharge the staff member and replace him or her with someone who would follow the rules of the Court. Exempt status will insure that the Court maintains that right. In addition, the exempt status is similar to that of secretaries and law clerks for justices of the Supreme Court, as is currently set forth in Section 76-16(9), Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1051 and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1051, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 512 Judiciary on S.B. No. 1230

The purpose of this bill is to help curtail the increasing rate of shoplifting by providing minimum mandatory sentences for persons convicted of committing the offense of shoplifting.

Testimony was heard from representatives of the Retail Merchants of Hawaii, Times Market, Kahala Mall and the Waikiki Improvement Association in support of the bill. The general feeling of these people was that the present law provides not even a minimal deterrent to shoplifters, as the courts are lenient on them due to the lack of any law regarding punishment of shoplifters. There has also been a lack of consistency in punishing guilty parties.

As there has been a 26 per cent increase in the amount of shoplifting since 1976-1977, your Committee feels it appropriate that minimum mandatory sentences be adopted to curtail the growth of this crime.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1230 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 513 Judiciary on S.B. No. 1677

The purpose of this bill is to amend the current law on terroristic threatening so that the offense is upgraded from a misdemeanor to a class C felony when it involves (1) the repeated use of threats; or (2) a pattern of conduct involving the use of threats; or (3) a threat made to a public official; or (4) when a firearm, explosive, or any dangerous weapon is used in connection with the threat.

Under current law, terroristic threatening is punishable only as a misdemeanor.

Your Committee amended S.B. No. 1677 as follows:

(1) By reorganizing the offense into two separate degrees of that crime; and

(2) By refashioning the language regarding the treatment of the offense as one in the first degree if repeated or made as "a pattern of conduct." By S.B. No. 1677, S.D. 1, the offense will become one in the first degree and a class C felony in the case of multiple threats involving a common scheme.

Your Committee's redraft of the "pattern of conduct" provision utilizes the phrase "common scheme" which has obtained precise usage in criminal law. The language of S.B. No. 1677, S.D. 1 in this regard requires multiple threats. It is intended that a terroristic threat should not be deemed a felony offense merely because it was directed at more than one person on the same occasion.

Your Committee's amendment of this bill by S.B. No. 1677, S.D. 1 also upgrades the offense to a class C felony in the case of a threat made against a public official or when a firearm, explosive, or dangerous weapon is used or threatened to be used in connection with the threat.

The purpose of this amendment to the bill is to provide greater sanctions against the offense of terroristic threatening when perpetuated under the aggravated conditions as described in S.B. No. 1677, S.D. 1.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1677, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1677, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Takitani.

SCRep. 514 Judiciary on S.B. No. 1682

The purpose of this bill is to better define the properties that may be forfeited when used in illegal gambling, and to allow the trial judge at the criminal trial to order forfeiture of such properties at his discretion.

The testimony of the Hawaii Crime Commission, which drafted the original form of S.B. No. 1682, reports very candidly that the case law is unclear as to whether forfeiture statutes are constitutional where the owner of the property does not have knowledge of its illegal use. S.B. No. 1682 has been amended in the form of S.B. No. 1682, S.D. 1 to require the evidence at the criminal trial to preponderate in favor of a conclusion that the owner had probably allowed its illegal use before the judge can order its forfeiture.

Your Committee is concerned that without reasonable criteria for the quantum of evidence required for forfeiture, confusion might occur in the construction of this law. On the one hand, one judge might require proof beyond a reasonable doubt before he will allow a forfeiture. On the other hand, another judge might disallow the forfeiture statute as unconstitutional because no adequate criteria are provided for the judge's exercise of discretion.

It should be noted in this regard that an owner who may feel he has a good claim to the property in question is allowed to intervene. In such intervention, the property is returned to him if he proves by the preponderance of evidence that he was not in complicity in the illegal use of the property.

Your Committee on Judiciary has deleted the reference to "casual gambling" because the affirmative defense of "social gambling" provides sufficient safeguard in that regard.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1682, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1682, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 515 Judiciary on S.B. No. 483

The purpose of this bill is to establish a set date for the celebration of Arbor Day.

Your Committee feels that the celebration of Arbor Day is an important event for the people of Hawaii who are blessed with the rich and beautiful vegetation of the islands.

Your Committee is in agreement with the testimony of the Outdoor Circle that the establishment of a set date, the first of November, would ease the planning process of many departments, organizations, and groups, such as garden clubs and school program coordinators, for the celebration of Arbor Day.

The bill provides that the set date for Arbor Day "shall not be construed to be a state holiday," therefore avoiding the problems and complications of adding another state holiday to our calendar.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 483 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 516 Economic Development on S.B. No. 1494

The purpose of this bill is to provide added protection for remaining conservation land. This bill mandates the Department of Land and Natural Resources and Board of Water Supply in the affected county to appear as parties in every case in which a petitioner requests that the Land Use Commission change a conservation district boundary. The Interim Statewide Land Use Guidance Policy in Section 205-16.1, Hawaii Revised Statutes, stating that "insofar as practicable conservation lands shall not be reclassified as urban lands", is replaced with a statement that would prohibit reclassification of conservation district land unless a compelling public purpose for the reclassification is demonstrated by the petitioner.

Your Committee believes that it is important to require that the Department of Land and Natural Resources and the Board of Water Supply in the affected county be mandatory parties in all boundary amendment petitions seeking to change conservation land. Your Committee believes that these two important agencies should be making recommendations on the proposed action, giving direct input, and sharing their focus with the Commission. In addition, if they are parties, they may call their own witnesses and cross-examine adverse witnesses if the need arises. Your Committee also believes that these two agencies are the appropriate ones to be assessing for the Commission the impact on the environment of the proposed action.

Your Committee has amended this bill by deleting the requirement of a demonstration of a "compelling public purpose" by the petitioner before any conservation land is reclassified. Your Committee feels that such a requirement is too ambiguous and therefore might create confusion as to its proper interpretation. Your Committee believes that the phrase "public purpose" should be clarified to better state the intent of your Committee. Therefore, your Committee has substituted the standard of a "compelling reason."

Your Committee has further amended this bill to include a definition of compelling reason which states that "compelling reason means a purpose that benefits or promotes the general public welfare or the welfare of the community surrounding the affected land rather than the welfare of a specific, narrow, or limited segment of the population."

Your Committee has further amended this bill to clarify its intent in this area by requiring that "The petitioner must demonstrate that the reclassification is necessary to achieve the compelling reason."

Your Committee has further amended this bill to clarify its intent on the contents of the assessments by the Department of Land and Natural Resources of the effect on the environment if the petition for reclassification is granted.

Your Committee has further amended this bill to make certain technical changes.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1494, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1494, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 517 Economic Development on S.B. No. 1588

The purpose of this bill is to amend section 205-6, Hawaii Revised Statutes, pertaining to Special Use Permits by providing that only those Special Use Permit requests involving lands with an area greater than fifteen acres shall be subject to approval by the land use commission. All other Special Use Permits shall only be subject to approval by the appropriate county planning commission.

Testimony given by the land use commission emphasized that steps are needed to streamline the complex land use regulatory systems. Pursuant to this need, the commission believes

that land use decisions whose impact is limited to a particular county should be decided by that particular county. The bill would accomplish this goal by placing decisions on Special Use Permits for land areas of less than fifteen acres to the appropriate county decision-making body. According to testimony by the department of planning and economic development, such a change would eliminate approximately 75 per cent of the Special Use Permits presently being reviewed by the land use commission and would allow the land use commission to concentrate its efforts on those Special Use Permits which would have greater impact of a statewide nature. In addition, such a change would make the system more efficient by leaving the decision on Special Use Permits to the body most qualified to make such a decision, thereby avoiding costly delays and duplication of efforts.

Your Committee is in accord with the aforementioned proposal to streamline the land use regulatory system.

The Department of Land and Utilization, City and County of Honolulu, recommended further amendments to the bill. The purpose of the amendments is to bring the processing of Special Use Permits into conformity with the City Charter which designates the city and county of Honolulu's planning commission as an "advisory", not a decision-making body. The law currently requires the county planning commissions to make final decisions on permits. This is clearly inconsistent with the Charter of the city and county of Honolulu.

Your Committee has amended the bill by adding provisions for land use decision-making by other county agencies in cases where the county planning commissions is an advisory body only. Other changes conforming to this amendment were also made.

Your Committee has made other technical changes to the bill by renumbering section 2 to section 3 and adding a new section 2 setting forth the effect of underscoring and bracketing in the bill.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1588, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1588, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 518 Higher Education on S.B. No. 336

The purpose of this bill is to require any new acquisition of land by the East-West Center to be approved by the Legislature.

Your Committee is in agreement that any new acquisition of real property or any interest therein by the East-West Center, especially property which is adjacent to present University property, shall be subject to approval by a majority vote of each house of the legislature in joint session.

At the time of the passage of Act 82, SLH 1975, the East-West Center had expanded from using approximately 4.5 acres to approximately 22 acres of University property. Simultaneously, the East-West Center was abandoning its original purpose as a student-oriented institution to that of a conference/research model. This resulted in a drastic reduction in student numbers from thousands to scarcely one or two hundred. Thus, while the Center's students were disappearing, its land acquisition expanded dramatically.

Your Committee heard testimony from Mr. Robert Hewett, Secretary of the East-West Center Corporation. It was pointed out in his testimony that the Governor of Hawaii and the President of the University are members of the East-West Center's Board of Governors. He further noted that the Governor appoints five members of the Board of Governors from the State of Hawaii, and that the view of the Center was that the strong Hawaii representation on the Board of Governors would provide the necessary safeguards for Hawaii's interests especially with respect to acquisition of lands. However, it is noted by your Committee that the Governor, or his designee, is an ex-officio member and the President of the University is an ex-officio, non-voting member. It is further noted by your Committee that of the eighteen member Board of Governors, only six voting members and one non-voting member would presumably be residents of the State of Hawaii.

Your Committee notes that Section 16 of Act 82, Session Laws of Hawaii 1975, provides, in part, that ". . .any disposition of land or granting of any right or interest in land by the University to the corporation or the federal government for the purposes of the corporation shall be subject to the approval by a majority vote of each house of the legislature in joint session."

Thus, it is clear from Act 82, SLH 1975 that the Legislature intended that the interests of the University with respect to land and its relation to University policy be protected by legislative scrutiny.

This is a logical extension of Article IX (EDUCATION) Sections 4 and 5 (University of Hawaii and Board of Regents; powers, respectively) of the Hawaii State Constitution wherein the University has public trust responsibilities and power to formulate policy in accordance with law.

Your Committee has amended the bill to provide for technical conformance of the language of the bill with Section 16 of Act 82, SLH 1975.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 336, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 336, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 519 Judiciary on S.B. No. 1196

The purpose of this bill is to provide mandatory sentences for the operation of any vehicle while under the influence of intoxicating liquor.

Your Committee heard testimony from the Department of Transportation, the Honolulu Police Department, and the Hawaii Insurance Association in support of the bill. Concern has been expressed over the significant impact driving under the influence of liquor has had on our annual traffic statistics.

S.B. No. 1196 provides minimum degrees of fines and license suspensions or revocations based on the number of offenses in one year. The bill also gives the district judge discretion to limit the license for use in work, business and for medical treatment while under suspension.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1196 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 520 (Joint) Health and Consumer Protection on S.B. No. 247

The purpose of this bill is to lower the required initial trust corpus minimum reserve used to secure enforcement of the interindemnity agreement as set forth in Chapter 435E, Hawaii Revised Statutes, from \$5,000,000 to \$3,000,000.

Testimony in favor was received by various medical groups, but one in particular worth citing is the one by the Wyatt Company, an actuary and employee benefit group.

Their findings concluded that a fund of a minimum reserve of \$3,000,000 and a contribution of \$20,000 per doctor from the number of doctors presently contributing to the fund would adequately cover the present average medical malpractice claim per year in Hawaii.

The report also noted the previous amount of \$5,000,000 established by the Legislature was based on a California law without regard to the differences between California and Hawaii. These differences involved California's medical malpractice average claim which is 3.6 times that of Hawaii's and the frequency of claims which is 1.2 times more than Hawaii's per 100 doctors. It is also important to note that California has 32 times more doctors than Hawaii.

Your Committees have found that the trust fund has not been operative due to the inability to secure the minimum amount required. In light of the Wyatt report, we find that lowering the minimum required would not jeopardize the concerns and needs of the people in the State of Hawaii, and more importantly, will activate the trust fund to further provide safeguards for both the physicians and concerns of the people in the State of Hawaii.

The Department of Regulatory Agencies was concerned over the maintenance of the minimum requirement of the fund in order to insure safeguards to patients and citizens in this State.

We have amended the bill accordingly.

Your Committees on Health and Consumer Protection and Commerce are in accord with the intent and purpose of S.B. No. 247, as amended herein, and recommend that it pass

Second Reading in the form attached hereto as S.B. No. 247, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senator Yee.

SCRep. 521 Health on S.B. No. 1535

The purpose of this bill is to establish a list of all available emergency training services and courses in the state and to include names, addresses and phone numbers of agencies offering the courses. This list will be located in all private, county and state hospitals, for public use.

Your Committee has found the need for a centralized list for the public's use to assist the public in finding first aid training courses and services.

Your Committee finds that it would be more appropriate to amend Section 321-224 for the purpose of this bill, and has amended the bill accordingly.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1535, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1535, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 522 Health on S.B. No. 1548

The purpose of this bill is to exclude minor providers of health services from coverage under the certificate of need law.

This bill will allow SHPDA to adopt rules to exclude "minor" providers with proposed expenditures of less than \$150,000 or changes which are deemed to have no substantial effect on the health care delivery system.

Testimony was received by SHPDA in favor of this bill because the intent of the certificate of need program is to cover major medical groups and the law presently goes beyond this intent.

We have amended the bill to carry out the purpose as expressed above.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1548, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1548, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 523 (Joint) Transportation and Public Utilities on S.B. No. 870

The purpose of this bill, is to strengthen and improve Hawaii's Water Carrier Law, Chapter 271G, Hawaii Revised Statutes. Your Committees made several amendments to the bill. More specifically, the bill as amended makes the following substantive changes to the current law: (1) it substantially modifies existing "file and suspend" procedures; (2) it increases the civil penalty for violation of the law to a maximum of \$5,000; and (3) it repeals a subsection limiting the Public Utilities Commission's authority to review certain transactions.

The file and suspend procedures currently set forth in Section 271G-17, Hawaii Revised Statutes, are substantially revised by this bill. Existing law provides that the Commission may suspend any new rate, fare, or charge for a period not to exceed six months. Under current law, when the carrier files for an increase, it goes into effect by operation of law upon the expiration of six months even though the Commission may not have made a decision as to the reasonableness of the increased rates.

Your Committees have amended this bill so that the procedure will be similar to that already applicable to other public utilities. The bill as amended provides that the Commission may permit a changed rate to go into effect in accordance with the filing of the carrier or it may suspend the rate pending a hearing and final decision. No rate increase which would have the effect of increasing the carriers' gross revenues during the test year by three percent or more may take effect without the prior approval of the Commission.

In the case of a rate increase exceeding that amount, a contested case hearing and a public hearing must be held for consumers of each county who are affected. Your Committees believe that it is essential that large rate increases by a single carrier in the vitally important interisland barge trade should be subject to scrutiny by the Commission and the public. However, the Commission will still be able to grant a temporary rate increase after a public hearing and upon a showing by the carrier of probable entitlement and financial need.

Your Committees received testimony on the foregoing changes from the chairman of the Public Utilities Commission and the deputy director of the Department of Regulatory Agencies who approve of these changes and recommend their adoption.

Your Committees find that the traditional arguments made by utilities in favor of file and suspend provisions, i.e., that they are necessary in order to insure that there is no undue regulatory lag, are no longer persuasive with our full-time Public Utilities Commission. Your Committees find that the Commission has been able to make final decisions within a reasonable length of time and that there has been no undue regulatory lag.

Your Committees further find that the existing file and suspend provisions of Hawaii's Water Carrier Law have encouraged excessive filings and abuse by the certificated carrier. Your Committees note that the Report of the Governor's Task Force on Inter-Island Surface Transportation found that the present file and suspend procedures resulted in a blizzard of rate requests from the certificated carrier. Beginning with the establishment of such procedures in mid 1974, and continuing with distressing regularity for the next four years, the carrier filed for increases of 19.2%, 7.0%, 17.2%, 6.2%, and 10.7%. Such requests were the most prolific of any company or utility under P.U.C. jurisdiction. These numerous filings became so complex that two applications were sometimes being considered concurrently. As a result of this confusion, which the carrier was able to induce under the existing law, the carrier received \$500,000 in excess of what the Commission determined was necessary to enable it to earn a reasonable rate of return. The modified file and suspend procedures of this bill will encourage the carrier to plan its financial needs in advance and approach the Commission with fewer but better prepared cases.

Your Committees further amended subsection (d) of Section 271G-19 for the purpose of increasing the civil penalty which may be levied against a water carrier or any officer, agent, employee, or representative thereof who fails or refuses to comply with any provision of the Chapter, or any rule, regulation, or filed tariff or requirement. The existing penalty of only \$100 is believed by your Committees to be unreasonably low for a large corporation with considerable resources. The Commission will be authorized to impose a civil penalty ranging from \$100 to \$5,000 depending on the circumstances. Continuing violations can be penalized up to \$1,000 per day.

Your Committees further find that the existing language in subsection (e) of Section 271G-14 which provides that a water carrier shall not be required to secure from the Commission authority to lease vessels, vessel equipment, or vessel towing equipment from another water carrier should be repealed. The subsection also makes any disposition of property by a water carrier conclusively presumed to be not necessary or useful in the performance of its duties to the public as to any purchaser, lessee, or encumbrancer dealing with such property in good faith.

The effect of this section is to limit the Commission's ability to act as a check on inter-corporate transactions which may result in benefits to the affiliate companies at the expense of the water carrier. For example, approximately one third of the present carrier's expenses are paid to affiliates. A significant portion of such expenses is paid for tug services. While the Commission has disallowed some expenses paid to affiliates, the carrier has argued that this section limits its authority to do so. Your Committees note that the Report of the Governor's Task Force on Inter-Island Surface Transportation found that inter-corporate self dealing between the certified carrier and its affiliate companies operated to the detriment of the carrier's rate-payers. By the repeal of subsection (e) your Committees intend that these transactions be examined by the Commission.

Your Committee has further amended the bill to delete language requiring all expenditures except salaries or other expenses required by law or which do not admit of competition to be approved by the Commission. There does not appear to be a basis for such a sweeping requirement which would generate a great deal of regulatory expense and work, some of which would be of questionable value. Apparently even the smallest expenses would have to be approved by the Commission. Furthermore, any unreasonable expense can already be disallowed by the Commission for ratemaking purposes. Your Committee also has deleted language requiring that expenditures exceeding \$8,000 and contracts for services and equipment with affiliates be put out to bid. While this language is an understandable reaction to the Task Force Report, your Committee believes its practical effects on the

trade should be clearly thought out before it is adopted. Again there appears to be no basis for the \$8,000 figure. Finally these requirements may affect ongoing proceedings at the P.U.C.

Your Committee has amended this bill to delete a provision providing for reconsideration and rehearings. Your Committee believes that these changes should be considered as part of a separate measure dealing specifically with these subjects.

Your Committees on Transportation and Public Utilities are in accord with the intent and purpose of S.B. No. 870, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 870, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 524 Transportation on S.B. No. 868

The purpose of this bill is to establish a temporary general aviation airport site selection commission.

Your Committee is acutely aware of the following: (1) the inherent danger in having heavy mixed aircraft traffic at Honolulu International Airport; (2) the necessity of assigning smaller aircraft to a general aviation airport which is safe, convenient and economical to the users and the community; (3) the necessity of making a final decision for the siting of a general aviation airport within the shortest possible time; (4) the necessity of rationally analyzing all factors that affect such siting; and (5) the desirability of providing direct community input into the decision making process.

After receiving information from all possible sources and after serious evaluation of the information received, your Committee has amended the bill in the following manner:

- (1) The section entitled "Temporary general aviation airport site selection commission" has been amended in the following respects:
 - (a) The composition of the Commission has been amended so that:
 1. Representatives of the general aviation sector are allowed to select two of the three representatives--one from the General Aviation Council of Hawaii and one from the Aircraft Owners and Pilots Association--while the third member, representing the commercial passenger carriers, is to be selected by the Chairman of the Commission;
 2. Five instead of four representatives of the general public shall sit on the Commission and all five shall be selected by the temporary citizens' advisory council;
 3. Two instead of one representative of organized labor (ILWU) shall sit on the Commission --one to represent sugar workers and one to represent pineapple workers;
 4. Two new members from the sugar and pineapple industries (HSPA and Pineapple Growers Association of Hawaii) were also added as members of the Commission; and
 5. A representative of the Chamber of Commerce of Hawaii was also added as a member of the Commission.
 6. The local representative of the Federal Aviation Administration was removed as a member of the commission.
 - (b) It is explicit that each member of the Commission shall be entitled to one vote and if any member refuses to serve, the size of the Commission shall be reduced by that number without the Commission losing its ability to make decisions.
- (2) The section entitled "Temporary citizens' advisory council" has been amended to explicitly provide: (a) for the appointment of five instead of four of their members as representatives of the Council; (b) that those members shall represent the Temporary Citizens' Advisory Council; and (c) that a designate of the Chairperson or President of the neighborhood boards or associations may be a member. It is hoped that these members will provide representation for all the communities that might be affected by the decisions of the Commission.

- (3) The section entitled "Duties of the commission" has been amended in the following respects:
- (a) Since it was realized that before the Commission can decide on a new site, it must determine what types of aircraft and services will be moved to a new site, that decision was included as one of the two decisions that the Commission must make;
 - (b) Since time is of the essence, January 1, 1980 was established as the deadline for the decisions of the Commission and the Commission is to submit a report to the Legislature and the Governor within fifteen days thereafter; and
 - (c) The Commission is to be disbanded upon submittal and receipt of its report.
- (4) The section entitled "Guidelines for the commission's decisions" has been amended in the following respects:
- (a) The ability to acquire the new site was included as a guideline;
 - (b) The Commission was directed to first determine whether joint use--military and general aviation--of an existing military airport would be feasible and within the guidelines; and
 - (c) That decision regarding joint use shall be made no later than September 1, 1979.
- (5) The section entitled "Finality of decisions of the commission" has been amended in the following respects:
- (a) The section was amended to properly reflect the two decisions of the Commission; and
 - (b) The words "and not appealable to any court" were deleted since your Committee felt that there was no practical method by which an appeal could be prevented and besides, it should be the prerogative of the courts to determine whether they should or should not entertain an appeal.
- (6) The section entitled "Duties of the department of transportation after the decisions of the Commission have been made" has been amended to clearly state that the department may utilize funds already appropriated for site acquisition, plans, construction and operation of the general aviation airport.

This bill, as amended, provides the general public with a significant opportunity to make actual decisions which will affect the daily lives of all residents of the State. The decisions of the commission will be made within the confines of the guidelines provided in the bill and will reflect a community consensus.

Your Committee on Transportation is in accord with the intent and purpose of S. B. No. 868, S. D. 1, as amended herein and recommends it pass Second Reading in the form attached hereto as S. B. No. 868, S. D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 525 Transportation on S.B. No. 1117

The purpose of this bill is to change the mandatory requirement that the Statewide Transportation Council annually determine ways to limit the number and kinds of transportation units in the State. This bill will grant discretion to the Statewide Transportation Council or the Legislature to decide when such a determination is necessary.

Your Committee heard testimony from the Department of Transportation in support of S.B. No. 1117. The Department of Transportation stated that annual reports are no longer necessary.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1117 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 526 Education on S.B. No. 608

The purpose of this bill is to exempt from compulsory school attendance those children who have graduated from a school for adults.

Your Committee has amended the bill by deleting the brackets from the term "vocational school" because vocational schools may not necessarily be included in the term "school for adults".

The Department of Education recommends that this bill be adopted.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 608, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 608, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 527 Education on S.B. No. 609

The purpose of this bill is to amend Section 301-2 of the Hawaii Revised Statutes to provide persons under the age of eighteen the opportunity to complete their high school graduation requirements in the adult education program.

The testimony by the Department of Education recommends the passage of this bill to allow certain youths other alternatives to complete their high school education. According to the Attorney General, minors are not permitted to enroll in the adult education program. The Department expressed the need to give these youths who are separated from the regular schools for whatever reasons, the opportunity to meet such requirements through the adult schools.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 609, 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 Kuroda and Anderson.

SCRep. 528 Education on S.B. No. 610

The purpose of this bill is to delete the responsibility of the State Librarian over the operations of the public school libraries.

Testimony by the Department of Education stated that the State Librarian's division only provides support services to the public school libraries. In reality, the public school principal has the authority and responsibility over the school's library.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 610, 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 Kawasaki, Kuroda and Anderson.

SCRep. 529 Education on S.B. No. 931

The purpose of this bill is to amend Chapter 298, H.R.S., to allow a student to be released from school attendance without penalty for the purposes of observing religious holy days if requested by his legal custodian.

Present Department of Education practice provides that students who miss school because of religious holy days are considered absent. Your Committee finds that a student should not be penalized for his religious beliefs.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 931 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 530 Education on S.B. No. 1059

The purpose of this bill is to transfer the television program, Pau Hana Years, from the Department of Education to the Hawaii Public Broadcasting Authority.

Both the Department of Education and Hawaii Public Broadcasting Authority agree that this program belongs with the Hawaii Public Broadcasting Authority. However, it is important that not only real property, personal property, and personnel be transferred, but that operating funds for this program be transferred as well. Once the personnel and program are transferred, it is understood that the program and personnel so transferred will be under the control of the Hawaii Public Broadcasting Authority, and subject to the same management, budgetary, and evaluation practices and procedures as all other programs and personnel, under the Authority.

Your Committee amended the bill by inserting provisions covering transfer of personnel and property, because the bill as drafted did not provide a mechanism for approval of the transfer of personnel and property by the legislature.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1059, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1059, S.D. 1.

Signed by all members of the Committee.

SCRep. 531 Education on S.B. No. 1518

The purpose of this bill is to enable the State Foundation on Culture and the Arts to carry out the functions and duties relating to historic preservation, research, restoration, presentation, museum activities, and support programs; to receive sites, buildings and objects significant in Hawaii's history and culture. Your Committee found, however, that only certain programs relating to historic preservation, restoration and presentation, and oral history research, recording and interpretive presentation should be transferred to the State Foundation on Culture and the Arts and to other State agencies where they more properly belong.

In a public hearing on this bill, both the executive director of the State Foundation on Culture and the Arts and the executive director of the Hawaii Foundation for History and the Humanities agreed that the oral history program should be transferred to the State Foundation on Culture and the Arts, where it more properly belongs. Your Committee believes that a more well-rounded presentation of oral history research, recording, and transcription can be combined with the present programs in the State Foundation on Culture and Arts. In addition, testimony submitted to the Committee revealed that the program which relates to historic preservation, restoration, and presentation should be transferred to the Department of Land and Natural Resources, which is already engaged in such a program, rather than to the State Foundation on Culture and the Arts.

Your Committee has amended the bill to accomplish these transfers of programs.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1518, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1518, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 532 Judiciary on S.B. No. 28

The purpose of this bill is to implement Article X of the State of Hawaii as amended by the Hawaii Constitutional Convention of 1978 and pertaining to the power of the Board of Education.

Your Committee has reviewed S.B. No. 28, S.D. 1 as to its conformance with Article X, Section 3 of the Hawaii State Constitution and finds the same to be in substantial conformity.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 28, S.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 533 Judiciary on S.B. No. 46

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article XVI, Section 3, to which such conformance is addressed by this bill reads as follows:

No person shall hold any public office or employment who has been convicted of any

act to overthrow, or attempt to overthrow, or conspiracy with any person to overthrow the government of this State or of the United States by force or violence."

Your Committee finds that passage of this bill will conform the Hawaii Revised Statutes to the amendment made by the Hawaii Constitutional Convention of 1978.

S.B. No. 46, S.D. 1 has been amended by correcting a typographical error on page 2, line 22, to change the pertinent section referred to as section 381-2(c) to 831-2(c).

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 46, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 46, S.D. 2.

Signed by all members of the Committee.

SCRep. 534 Judiciary on S.B. No. 172

The purpose of this bill is to broaden driver license exemptions for non-residents.

Your Committee agrees that persons from the District of Columbia should be given the same measure of privilege in this regard with persons from the various states of the Union and Canada. The people of Hawaii can remember when we were persons with less than full statehood status.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 172, S.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 535 Judiciary on S.B. No. 174

The purpose of this bill is to provide for a post-judgment garnishment procedure whereby a judge will determine whether a proposed garnishment will affect exempt property or assets of a debtor.

Under this bill, the judgment debtor will be afforded an opportunity to question the propriety of a proposed garnishment to prevent the seizure of any property or assets protected by federal or state law. Notice to the debtor of the judicial hearing shall be effected by personal service or first class mail, at least ten days prior to the hearing.

Your Committee has received favorable testimony that such a post-garnishment procedure is needed in the present law to constitutionally protect the rights of debtors. Accordingly, your Committee finds that a judgment debtor should be provided with an opportunity to question the legality of a proposed garnishment as it affects exempt property or assets.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 174 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 536 (Majority) Judiciary on S.B. No. 176

The purpose of this bill is to further define the term "displaced person" under section 111-2 to include only those persons who are lawfully residing or occupying real property.

Under present law, a displaced person may be compensated by the State for displacement from his land caused by the acquisition of such land by the State for a public purpose or for other purposes in the public interest.

This bill amends the present law to exclude from the definition of displaced person a squatter or trespasser upon State land or any other person residing on or unlawfully occupying any real property.

Your Committee has amended S.B. No. 176 for technical changes to correct typographical errors and to make minor word order changes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 176, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 176, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Chong did not concur.

SCRep. 537 Judiciary on S.B. No. 596

The purpose of this bill is to upgrade the offense of criminal property damage caused by the use of a firearm. Under this bill, if a person intentionally or recklessly damages the property of another, without consent, by use of a firearm, he commits the offense of criminal property damage in the second degree. The offense of criminal property damage in the second degree shall be punishable as a Class C felony.

Your Committee has received favorable testimony from the Prosecuting Attorney of the City and County of Honolulu and the Honolulu Police Department that the passage of this bill is a necessary step in curbing the high rate of crimes involving firearms.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 596 and recommends that it pass Second Reading in the form attached hereto as S.B. No. 596, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 538 Judiciary on S.B. No. 639

The purpose of this bill is to eliminate the offense of "operating or carrying a passenger on a motor scooter or motorcycle without a safety helmet from the schedule of points assigned for traffic violations in section 286-128, Hawaii Revised Statutes.

Your Committee on Judiciary feels that the bill accurately conforms the schedule of points assigned for traffic violations to provisions covering protective equipment for motorcycles and motor scooters under section 286-81, Hawaii Revised Statutes.

In its testimony, the department of transportation opposed the bill. It felt that the "proposal is based on the erroneous conclusion that helmet use is no longer required by motorcycle and motor scooter operators and passengers. The department pointed out that section 286-81 states:

"No person less than eighteen years of age shall operate or ride as a passenger on a motorcycle or motor scooter on any highway in the State unless he wears a safety helmet securely fastened with a chin strap."

Your Committee felt that the age requirement imposed by section 286-81 is a carefully spelled-out exception to the general rule for protective equipment. Therefore, retaining the provision in the point schedule would mean a conflict between sections 286-81 and 286-128 for anyone over eighteen years of age. Even with the elimination of the safety helmet provision from section 286-128, it will remain a violation for those under eighteen to operate or be a passenger of a motorcycle or motor scooter without a helmet.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 639 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 539 Judiciary on S.B. No. 670

The purpose of this bill is to exempt the State and counties from the requirement of holding a public hearing prior to the adoption, amendment, or repeal of rules pursuant to section 91-3, in cases where the amendment or repeal of a rule is required by the federal government as a condition of federal funding.

Under this bill, the governor or mayor may waive the requirement of holding a public hearing under section 91-3 for a state or county agency respectively, if the change in rules is one that is required by the federal government for funding and is not subject to change as a result of a public hearing.

Notice of a change effected by the adoption, amendment or repeal of a rule under this bill must still be given to any person directly affected by the change prior to the rule's implementation.

Your Committee on Judiciary has reviewed Standing Committee Report No. 381 submitted jointly by the Committees on Intergovernmental Relations and Government Operations

and Efficiency and is in agreement with this report.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 670 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 540 Judiciary on S.B. No. 757

The purpose of this bill is to allow law enforcement agencies to inspect family court records of juvenile offenders.

Section 571-84, Hawaii Revised Statutes, provides that except in certain instances, the records of all cases before the family court in proceedings under section 571-11 and in paternity proceedings under chapter 579, records shall be confidential. S.B. No. 757, however, would provide an additional exception for inspection by the attorney general, prosecuting attorney and other law enforcement agencies.

With the ever growing increase of crime in the juvenile area, your Committee feels that valid law enforcement purposes dictate the availability of family court records to these people. Your Committee is cognizant of the inherent privacy problems in allowing access to these records and the irreparable damage that may be caused to a juvenile in the years following the release of his records. However, your Committee is confident that law enforcement officials will use proper discretion in examining records of juvenile offenders and disseminating this information.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 757 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 541 Judiciary on S.B. No. 1681

The purpose of this bill is to effectuate comprehensive improvement of Hawaii's laws pertaining to theft by extortion and criminal coercion. In the main, this bill seeks to achieve such purpose by (a) unifying these separate criminal provisions; (b) making unavailable the "claim of right" defense under certain defined situations; and (c) expanding Hawaii's extortion laws to prohibit extortionate credit transactions.

The Hawaii Crime Commission (called "Commission") provided your Committee with an extensive 25-page report on the subject together with two drafts of the bill reflecting continued perseverance of its efforts. We express our gratitude for the Commission's commendable efforts.

1. Treatment of the "Claim of Right" Defense. Central to the problem existing in the prosecution of extortion and related crimes under present Hawaii law is the fact that the accused has the right to assert in defense that the victim does in fact owe him a debt, and that the threats he has made was accordingly made in his own "claim of right" to obtain payment. This is the "claim of right" defense. It arises because present "theft by extortion" and "criminal coercion" provisions are focussed upon the results sought to be obtained by the threat. That is, present law is addressed to whether the end pursued was right or wrong, and if the accused had a credible "claim of right" to obtain that end; then that in itself becomes a defense regardless of whether the threat made to obtain that end was improper.

The Commission's study does not recommend eliminating the "claim of right" defense in situations where the offense can be prosecuted focussed upon the wrongfulness of the result sought to be obtained. For example, if an accused sought to obtain money that did not belong to him, then the thought is that prosecution should be pursued with that objective.

2. Extortionate Credit Transactions. The Commission's answer to the problem raised by the "claim of right" defense is to enact statutory provisions that make extortionate credit transactions a crime. The focus of such law is to prohibit certain threats to collect debts. It is the extortionate or illegal means incorporated in the threat that is made illegal and whether the accused has a credible "claim of right" to obtain his desired result, i.e. the payment of the debt, becomes immaterial to the determination of his culpability. Accordingly, by this different focus, Hawaii's new extortionate credit transaction provisions would eliminate the use of the "claim of right" defense in debtor-creditor situations where prohibited means are employed.

It should be observed that the extortionate credit transaction provisions are applicable in debtor-creditor situations only. It prohibits (a) extensions of credit with the understanding that extortionate means will be used to collect; (b) financing extortionate loans; and (c) collecting debts by use of extortionate means.

The Commission reports that such provisions are necessary to allow prosecution of the higher echelon of organized crime's "loan shark" operations. These provisions have been drafted along the model of the federal statute, and your Committee notes that recently a federal appellate court held the law to be valid. U.S. v. De Vincent, 546 F.2d 452 (1st Cir. 1976), cert. denied 431 U.S. 903.

3. Unification of "Theft by Extortion" and "Criminal Coercion" Provisions. The unification sought to be achieved by the Commission of the "theft by extortion" and "criminal coercion" provisions are as indicated by the chart attached to this report as Exhibit A, which was adapted from the Commission's presentation. However, it should be observed that S.B. No. 1681, S.D. 1 amends its original form in accordance with revisions forwarded by the Commission, except for very minor grammatical changes.

Your Committee believes that this amendment to the bill will serve to effectively upgrade the laws pertaining to theft by extortion and criminal coercion.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1681, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1681, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 542 Judiciary on S.B. No. 1703

The purpose of this bill is to specify procedures to be followed upon submission of constitutional amendments or revisions to the public for voter ratification.

Your Committee has received favorable testimony in support of this bill which stressed the importance of educating the public of the pros and cons of each amendment or revision prior to an election by an informational booklet as well as providing the electorate with copies of the entire text of each amendment at the polls.

This bill also provides that each amendment will be limited to a single subject and will require that a voter vote "yes" or "no" on each amendment in order to have that vote counted.

Your Committee has amended this bill by deleting the word "YES" in line 3 on page 4 before the word "votes," as it believes that such wording is superfluous in this section and is subject to misinterpretation.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1703, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1703, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 543 Ways and Means on S.B. No. 1091

The purpose of this bill is to lapse certain capital improvement appropriations which are unencumbered or which have not yet been lapsed by law.

Your Committee finds that in prior acts of the legislature, appropriations have been made for a number of capital improvement projects for which there remain appropriations and appropriation balances which are unencumbered. The existence of these inactive appropriations, with the corresponding authorization to finance the appropriations through the issuance of bonds, represents potential additional debt service to be counted against the debt limit as defined by the State Constitution.

Recent amendments to the State Constitution recognize the potential problem posed by having more than one billion dollars of authorized but unissued bonds. A lapsing provision has been established which would cause all general obligation bond funded appropriations which are unencumbered as of June 30, 1980 to lapse on that date unless otherwise earlier lapsed by law. The intent being that lapsing of inactive appropriations will facilitate accountability for capital improvement projects and will encourage a more rational development of capital improvement programs, requiring executive agencies to conduct on-going reviews of capital improvement programs.

The bill has been amended with the inclusion of projects which 1) are inactive and will not be implemented prior to June 30, 1980 as indicated by the operating departments and 2) the appropriations which have not been expended due to changes in circumstances or inaction by the expending agency.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1091, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1091, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 544 Judiciary on S.B. No. 1322

The purpose of this bill is to amend the Hawaii Revised Statutes, section 298-26, to impose penalties on unauthorized vehicles parked on public library grounds.

It was brought to the attention of your Committee that an error exists in Standing Committee Report No. 390. As stated by the Chairman of the Education Committee, it was their intention that the \$50. fine be applicable to unauthorized vehicles parked on both school and public library grounds.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1322, S.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 545 Judiciary on S.B. No. 710

The purpose of this Act is to amend Section 281-92, Hawaii Revised Statutes, by deleting the requirement therein that any decision of the Liquor Commission in assessing a penalty or suspending or revoking a license may, upon appeal to the circuit court, be tried de novo. Such a requirement causes duplicative hearings, is timeconsuming and places unnecessary burden upon our crowded court system and the witnesses. Chapter 91 governing administrative appeals to the circuit court already provides the licensee receiving an adverse decision with adequate safeguards and protection without the necessity for a trial de novo.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 710 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 546 Judiciary on S.B. No. 1492

The purpose of this bill is to modernize the Standard Valuation Law and the Standard Nonforfeiture Law for life insurance and annuities. These amendments have been adopted by the National Association of Insurance Commissioners for nationwide enactment and to date twenty-five states have enacted this model law and a concerted effort is being made for the remaining states to enact it during the present year. The Department of Regulatory Agencies and representatives of the life insurance industry testified in support of the bill.

Your Committee was informed by The Department of Regulatory Agencies that this bill will have the following desirable results:

1. Permit life insurance to be sold to females with a six year setback, that is at the same rates for a male six years younger than the actual age of the female. The present law only permits a setback of three years.
2. Increase the arbitrarily established maximum interest rate which may be used to calculate the minimum reserves required by law to be maintained by life insurance. The interest rates are varied according to the term of the investment risk associated with the type of life insurance or annuity product involved.
3. Increase the established maximum interest rate which can be used to calculate minimum nonforfeiture values which are guaranteed in life insurance policies.
4. Require individual deferred annuity contracts to certain minimum nonforfeiture benefits and that reserves be maintained to guarantee payment of these benefits as well as establishing the method for determining and valuing these reserves.

These changes will apply only to policies issued after the effective date of the Act. The changes described in paragraphs 1, 2 and 3 will result in lower premiums being charged to future policy purchasers.

The changes described in paragraph 4 will fill a need in our law in that many companies voluntarily provide nonforfeiture benefits in deferred annuity contracts, others do not. This bill will require that all companies provide certain minimum nonforfeiture benefits to an individual who discontinues paying premiums comparable to the nonforfeiture benefits provided in life insurance policies.

Your Committee has amended the bill to correct typographical spelling and cross referencing errors.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1492, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1492, S.D. 2.

Signed by all members of the Committee.

SCRep. 547 Judiciary on S.B. No. 1727

The purpose of this bill is to make assaults against a correctional officer, peace officer, or fireman while engaged in duty a class C felony.

Your Committee received testimony from the Honolulu Police Department and the Department of Social Services and Housing that such legislation is needed to deter the rising number of assaults committed against correctional officers and other personnel each year.

This bill has been amended to include the additional element of knowledge by the violator that the person he commits the assault against is a correctional officer, peace officer or fireman.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1727, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1727, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 548 Intergovernmental Relations on S.R. No. 78

The purpose of this resolution is to request Congress to exempt the State of Hawaii from the multi-lingual requirements of Title III of the Voting Rights Act as amended in 1975.

Your Committee finds that the experience of the 1976 and 1978 elections indicates that the printing of voter information forms and ballots in foreign languages is a financial burden on the State, especially when the cost-effectiveness ratio of such assistance is very low. Hawaii's state and county governments expended more than \$500,000 to provide the required multi-lingual assistance in the 1976 elections and similar expenditures were made in the 1978 elections and statistics compiled by the Office of the Lieutenant Governor reveal that only 191 persons requested foreign language ballots in the 1976 elections and 184 requests were made in the 1978 elections.

Your Committee on Intergovernmental Relations concurs with the intent and purpose of S.R. 78 and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 549 (Majority) Ways and Means on S.B. No. 849

The purpose of this bill is to amend chapter 235, Hawaii Revised Statutes, by adding a new part which imposes a tax on gains from the sale or exchange of real property.

In recent years, Hawaii has witnessed a spiraling escalation of real estate prices which has had the effect of pricing increasing numbers of young local homebuyers out of the housing market. Numerous factors contribute to the critical residential housing shortage and skyrocketing inflation of housing prices in the State. Among these factors, speculative buying and selling practices is a significant one.

Your Committee finds that while normally the taxing power of the State is utilized as a means of generating revenues, it can also serve a useful function as a tool to achieve public policy goals. In the case of speculation of the housing market, it is your Committee's

belief that a tax on gains realized from the sale or exchange of real property can operate to deter speculative investment practices on the housing market.

The tax proposed in this bill would not prevent a seller of a housing unit from obtaining a fair and reasonable return on the sale of his housing unit. Rather, it would operate to reach those sales which within a short period of time result in exorbitant profits to the seller. It is this type of short term investment in housing which reaps extreme profits that this measure attempts to curb.

Your Committee recognizes that this measure alone will not be a panacea for the housing problems confronting the citizens of this State, however, it is an effort which is consistent with the policy goals of the State.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 849, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 849, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Carpenter, Anderson and Yee. Senator Kawasaki did not concur.

SCRep. 550 (Joint/Majority) Intergovernmental Relations and Economic Development on S.B. No. 1003

The purpose of this bill is amend Section 46-4 of the Hawaii Revised Statutes to allow the counties to phase out nonconforming uses.

Your Committees have amended the bill by adding structures and signs as other types of nonconforming uses for purposes of clarity. Other amendments were made to reflect proper bill format.

Your Committees on Intergovernmental Relations and Economic Development are in accord with the intent and purpose of S.B. No. 1003, and recommend that it pass Second Reading and be placed on the calendar for Third Reading as S.B. No. 1003, S.D. 1.

Signed by all members of the Committees except Senators Hara, Saiki and Yee. Senator Carroll did not concur.

SCRep. 551 (Majority) Judiciary on S.B. No. 286

The purpose of this bill is to prohibit public employees from engaging in outside work at wage rates less than those prevailing for such employment as determined by the Director of the Department of Labor and Industrial Relations.

Your Committee appreciates the succinct discussion of this bill contained in Standing Committee Report No. 382 as submitted by your Committee on Human Resources. We agree that in these difficult economic times, the privileges of public employment should not be used as a base for unfairly competing with others in the community in the regular labor market.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 286, S.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Chong and Saiki. Senator Carroll did not concur.

SCRep. 552 Judiciary on S.B. No. 451

The purpose of this bill is to require the Department of Health to issue birth certificates for foreign born children adopted in this State by Hawaii residents.

Under the present law, birth certificates are not issued to foreign born children after they have been adopted and even after they have become naturalized citizens.

S.B. No. 236 would amend the present law to require the Department of Health to establish a Hawaii certificate of birth after the adoption of a foreign born child has been granted by the family court and after pertinent information such as the child's birthdate, place of birth, and race has been presented to the Department.

Your Committee has received testimony from several parents of foreign born children who urge passage of this bill. It is the finding of this Committee that 29 states already have a procedure by which to issue birth certificates to foreign born children and due

to the large number of such children living in this State, such a procedure is greatly needed in Hawaii.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 451 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Chong and Saiki.

SCRep. 553 Judiciary on S.B. No. 494

The purpose of this bill is to provide month-to-month tenants with notice of an anticipated conversion of their dwelling units into condominiums at least ninety days prior to a proposed demolition of the property or termination of the tenancy.

Your Committee received testimony from various citizens' groups urging the passage of this bill. Under the present law, a landlord is only required to give month-to-month tenants 28 days' advance notice of a proposed termination before converting the dwelling units into a condominium. Your Committee finds that the shortage of available housing in this State coupled with notice of termination of less than a month's time works great hardship on tenants in finding replacement housing.

S.B. No. 494, S.D. 1 has been amended on page 1, line 10 to insert the words "to the tenant" thereby clarifying that notice of termination shall be given to the tenant by the landlord.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 494, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 494, S.D. 2.

Signed by all members of the Committee except Senators Chong and Saiki.

SCRep. 554 Judiciary on S.B. No. 665

The purpose of this bill is to facilitate the effective investigation of welfare fraud and other crimes relating to public assistance.

Your Committee acknowledges the very able treatment of this bill in Standing Committee Report No. 111, submitted by your Committee on Human Resources. We have reviewed this bill for legal content and find it proper.

Your Committee is in accord with the intent and purpose of S.B. No. 665, S.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Chong and Saiki.

SCRep. 555 Judiciary on S.B. No. 893

The purpose of this bill is to strengthen the enforcement provisions of the no-fault automobile insurance law.

After receiving testimony from the Motor Vehicle Insurance Division your Committee has amended the bill as follows:

- (1) Restricted the penalty for first-time offenders to a fine not less than \$100 nor more than \$1,000;
- (2) Made the imposition of such penalty for first-time offenders discretionary;
- (3) Provided for mandatory imposition of additional penalties in the case of multiple or repeated violations;
- (4) Amended section 805-13(c), Hawaii Revised Statutes, to make it consistent with section 294-39, Hawaii Revised Statutes, as that section has been amended by your Committee.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 893, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 893, S.D. 2.

Signed by all members of the Committee except Senators Chong and Saiki.

SCRep. 556 Judiciary on S.B. No. 1043

The purpose of this bill is to more clearly define the trial judge's discretion in awarding interest in civil cases.

Your Committee understands that at the present time interest is generally awarded commencing on the day the judgment is rendered. Where the issuance of a judgment is greatly delayed for any reason, such fixed commencement date can result in substantial injustice. Allowing the trial judge to set the rate and designate the commencement date will permit more equitable results. Also, it is expected that party litigants will give serious regard to this discretion on the part of the trial judge so that those who may have had an unfair leverage by the arbitrariness of the prior rule will arrive at the realization that recalcitrance or unwarranted delays in cases which should be more speedily resolved will not enhance their position or assure them of a favorable award.

S.B. No. 1043 has been amended to effect simple statutory clarity.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1043, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1043, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chong and Saiki.

SCRep. 557 Judiciary on S.B. No. 1049

The purpose of this bill is to clarify the offense of unreasonable noise. Under this bill, the failure to heed the warning of a police officer that a person is creating unreasonable noise will result in an offense.

Your Committee has amended page 2, lines 13 through 22, to implement the suggestions of Citizens Against Noise, to better delineate what action constitutes the offense of unreasonable noise.

A further amendment to this bill has been made on page 3 subsection (c) with regard to the penalty provision. Under the amendment the offense of unreasonable noise is subject to a maximum rather than a mandatory fine of \$50 and in the case of a second fine within twelve months, a maximum not mandatory fine of double the initial penalty.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1049, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1049, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chong and Saiki.

SCRep. 558 Judiciary on S.B. No. 1284

The purpose of this bill is to facilitate coordination of the trust, uniform probate code and professional corporations provisions of the Hawaii Revised Statutes, and to ensure that professional corporations qualifying as trustees shall be subject to the fiduciary duties applicable to trustees.

Certain provisions of the Hawaii Revised Statutes, including primarily the professional corporation statute, have been expanded to cover persons who are appointed trustees and would like to be able to form professional corporations.

Your Committee felt that S.B. No. 1284 would benefit any trust concerned because it would aid in the attraction of the most qualified individuals and encourage them to accept trustee appointments by providing the same types of benefits available in corporations generally. It should be made perfectly clear, however, that it is not the intention of your Committee to allow trustees and personal representatives to escape liability by incorporating.

Your Committee has amended the original form of S.B. No. 1284 to also allow trust companies engaged in trust transactions to hold securities in bulk, provided that transfer of interests of portions of such bulk shall be confirmed by appropriate bookkeeping entries and certification of individual deposits and holdings shall be made on demand of the depositors.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1284, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1284, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 559 Judiciary on S.B. No. 1324

The purpose of this bill is to update the list of controlled substances as required by section 329-11(e), Hawaii Revised Statutes, to set up a system for the department of health to publicly announce and make available to the public copies of any changes to the schedules, to add a new subsection regarding the preparation of prescriptions, and to add provisions to the Penal Code to assist investigators in properly performing their duties.

Your Committee concurs with your Committee on Health to adopt the recommendation of the department of health to amend the proposed bill in order to bring Hawaii's controlled substances schedules into conformity with the federal schedules.

Your Committee has amended the bill by correcting certain typographical errors found in both S.B. No. 1324 and S.B. No. 1324, S.D. 1. These corrections in no way alter the intent and purpose of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1324, S.D. 1, as amended herein and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1324, S.D. 2.

Signed by all members of the Committee except Senators Chong and Saiki.

SCRep. 560 (Majority) Judiciary on S.B. No. 1415

The purpose of this bill is to propose an amendment to section 804-4 pertaining to bail. Under this bill, a judge would be given the discretion to deny bail to an accused whom the judge believes is a danger to himself or to the community.

Your Committee finds that the present law allows a judge to withhold bail only when the charge against the defendant could result in life imprisonment without the possibility of parole. S.B. No. 1415 provides additional criteria for the court when deciding on the matter of bail.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1415 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 Chong and Saiki.
Senator Carroll did not concur.

SCRep. 561 Judiciary on S.B. No. 1437

The purpose of this bill is to require any person driving a moped to possess at least an instruction permit, issued in accordance with section 286-110. To this effect, section 291C-194 is amended. This instruction permit shall be valid for an indefinite period of time, during daylight or darkness, and shall be marked on its face: "moped only."

S.B. No. 1437 also requires that all mopeds be subject to an annual safety inspection, the criteria for which shall be established by the director of transportation.

Your Committee amended S.B. No. 1437 to reflect technical changes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1437, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1437, S.D. 1

Signed by all members of the Committee except Senators Chong and Saiki.

SCRep. 562 (Majority) Ways and Means on S.B. No. 1657

The purpose of this bill is to assist those sugar farms whose costs of production exceed their returns until such time as adequate returns are received or the prospect for such returns are deemed unrealistic. To accomplish this purpose Act 19, Special Session Laws of Hawaii 1977, is amended by this bill to provide coverage to larger farms, making an additional appropriation, and extending the time limit for the making of loans under the Act.

Your Committee finds that this assistance will prevent the abandonment of sugarcane farms that are in dire need. The State can ill afford the demise of the sugar industry.

Your Committee has changed section 2 of the Act to indicate that Act 189, Session Laws

of Hawaii 1978, is being amended which also amended Act 19, Special Session Laws of Hawaii 1977.

Your Committee has amended section 3 of the bill to reduce the appropriation amount from \$7,000,000 to \$1. The amount of need of the industry at this time is unclear and until more substantial information is obtained, the appropriation amount should be left as a nominal sum. Other nonsubstantive technical amendments have also been made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1657, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1657, S.D. 2.

Signed by all members of the Committee except Senators Anderson, Soares and Yee. Senator Kawasaki did not concur.

SCRep. 563 Consumer Protection and Commerce on S.B. No. 83

The purpose of this bill is to replace the resale price maintenance provision in Section 281-18 with wholesale price posting. This bill also requires a minimum retail mark up of one hundred ten percent of the wholesale price at which the liquor was purchased from the wholesaler.

Your Committee is in agreement that a repeal of sections 281-18 and 281-43 is necessary and therefore has changed the original intent of this bill because of possible violations of federal antitrust laws.

Your Committee realizes the following:

1. A substantially similar provision to section 281-18 in California was held to be unconstitutional by the California Supreme Court. The legality of section 281-18 has also been challenged in Hawaii in District Court and a preliminary injunction has been issued.
2. With passage of the Consumer Goods Pricing Act of 1975, Congress repealed fair trade enabling legislation. There is now no federal antitrust exemptions that permit states to enact fair trade laws.
3. Free and open competition, under Hawaii's antitrust laws, is the rule of business in this State. Minimum consumer prices (281-18) and wholesale price posting (281-43) run counter to the intent of free and open competition.
4. Repeal of sections 281-18 and 281-43 will probably result in the lowering of consumer prices for liquor.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 83, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 83, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 564 Consumer Protection and Commerce on S.B. No. 84

The purpose of this bill is to delete, in Hawaii's Sunset Law, the requirements that the joint interim committee must hold a public hearing to review each impact statement and file and report to the clerks of both houses.

This requirement creates problems during an election year when there is not enough time to do interim work and especially after the election when both the House and Senate are busy organizing.

Your Committee has amended this bill by renumbering Section 2 as Section 3 and inserted a new Section 2 indicating the effect of the underscoring and bracketing in the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 84, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 565 (Majority) Consumer Protection and Commerce on S.B. No. 90

The original purpose of this bill was to consider the possibility of changing the no-fault insurance open rating period provided for in Chapter 294.

Your Committee, after discussion and deliberation, has decided to defer action with respect to the open rating period at this time. Your Committee has decided that the problems associated with providing free no-fault insurance to public assistance recipients should be addressed. Accordingly, your Committee has amended the bill.

The purpose of the bill as amended is to discontinue the present free no-fault automobile insurance coverage to public assistance recipients.

Your Committee has noted that Hawaii is presently the only state that provides free motor vehicle insurance coverage to public assistance recipients. Under the present system, the premiums of welfare recipients are in essence passed on to the rest of the insured motoring public. While the overall Hawaii Joint Underwriting Program is operating efficiently, it is anticipated that the financial situation of the Hawaii Joint Underwriting Plan will not be resolved as long as the free insurance concept is retained and the public assistance population of the program is not significantly changed.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 90, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 90, S.D. 1, and be placed on the calendar for Second and Third Reading.

Signed by all members of the Committee except Senator Yee.
Senator Campbell did not concur.

SCRep. 566 Consumer Protection and Commerce on S.B. No. 158

The purpose of this bill is to amend various definitions contained in section 514A-3, and to amend section 514A-90(a) in regard to priority of liens.

Your Committee has reviewed the bill after a public hearing, and has made a few amendments of a technical nature to clarify the intent of this bill. A more detailed explanation of the content of this bill, and the amendments your Committee has made is as follows:

1. "Apartment owner" had been amended in S.D. 1 of the bill to be defined as the person owning an apartment as provided by lease recorded with the Bureau of Conveyances or registered with the Land Court. In testimony presented by the Hawaii Council of Associations of Apartment Owners, which proposed replacement of the present language which defines "apartment owner" as provided by lease filed with the association's board of directors, it was stated:

Ownership of the apartment depends on administrative action by others--first, by the landowner to deliver the lease to the Board of Directors and, secondly, on the Board of Directors to retain the lease in their file. This appears to be a hazardous way of determining whether an individual, in fact, owns an apartment. It is considered that the proposed amendment will clarify this situation. In the absence of such a revision, it is theoretically possible for a landowner to insist that he is still the owner of the apartment and entitled to voting rights and other privileges of ownership.

Your Committee has amended the term to provide that it be clarified as the person owning an apartment as provided by lease or deed recorded with the Bureau of Conveyances or registered with the Land Court.

2. "Common elements" had been amended in S.D. 1 of the bill to spell out that only those facilities that are on the property of a condominium project may be designated as a common element in the declaration.

Your Committee has broadened the definition of this term to include applicability to facilities "off the property which are necessary for the operation and maintenance of the property."

3. To preserve the intent that only common expenses for common elements be included in maintenance fee expenditures, your Committee has amended the term "common expenses" to apply only to common elements as redefined in item 2-above.

4. S.D. 1 of this bill added an amendment to section 514A-90(a) to provide that a lien created for unpaid common expenses assessed during the six months immediately preceding

institution of an action shall have a higher priority than all sums, including expenses such as attorney's fees, unpaid on recorded mortgages.

Your Committee received favorable testimony on this amendment from the Waikiki Residents Association, the Hawaii Council of Associations of Apartment Owners, and the Council of Presidents. The Hawaii Council of Associations of Apartment Owners stated that this provision is derived from the draft Uniform Condominium Act as recommended by the National Conference of Commissioners on Uniform State Laws, as adopted in several states.

The Hawaii Association of Realtors stated that "this amendment could have an adverse effect on the availability of mortgage funds."

The Mortgage Bankers Association of Hawaii stated:

While in certain ways this no doubt makes a good bit of sense, nevertheless it will increase the difficulty of arranging financing for condominiums. Generally, condominiums, particularly high rise condominiums, are not regarded by most mainland investors as the highest available security, and to state that the lien of the mortgage will be inferior to the lien of 6 months maintenance will create greater concern among mortgagees.

Your Committee has amended this provision to provide that such liens for common expenses shall take priority over all liens except a first mortgage.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 158, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 158, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 567 (Majority) Consumer Protection and Commerce on S.B. No. 205

The purpose of this bill is to eliminate the 10% discount for full-time students purchasing no-fault insurance.

Your Committee has received testimony from the Motor Vehicle Insurance Division indicating that youthful drivers have received an average rate decrease of approximately 64% because of the elimination of such factors as age, sex and marital status. Most students are in the "youthful driver" category and thus it is hard to justify an additional 10% rate decrease. There is also no actuarial justification since youthful drivers are also known to have a disproportionately high number of accidents.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 205 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 Yee.
Senator Campbell did not concur.

SCRep. 568 Consumer Protection and Commerce on S.B. No. 212

The purpose of this bill is to provide that the minimum age to qualify as a taxicab driver shall not exceed eighteen years of age. Your Committee has amended the bill to require taxicab drivers to be at least eighteen or older. Your Committee has renumbered Section 2 to Section 3. The new section 2 includes the age requirement.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 212, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 212, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 569 Consumer Protection and Commerce on S.B. No. 557

The purpose of this bill is to subject to the regulatory and licensing provisions of the Motor Vehicle Industry Licensing Act, any person engaged in the business of renting or leasing motor vehicles who also advertises or sells used vehicles at wholesale, retail or both on a regular basis.

Your Committee is in agreement that anyone who engages in the relatively new area

of renting or leasing automobiles and who sells the rental automobiles as used cars should come under the definition of "used motor vehicle dealer".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 557 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 Yee.

SCRep. 570 Consumer Protection and Commerce on S.B. No. 581

The purpose of this bill is to require condominium projects to meet applicable county requirements in relation to county building, zoning and subdivision rules, codes, ordinances and regulations.

Your Committee has received testimony indicating that conversions of pre-existing property from rental status to condominium status are of a mechanical nature under the present law in that developers are free to convert and resell substandard properties with no restrictions on quality or code compliance, as long as the market will bear it. This bill will require assurance to the buyers of condominiums which have been converted from rental units that these units meet minimum standards as to habitability and safety. This bill will also protect low and middle income renters from wholesale conversions and the resulting mass evictions that create a severe impact on Hawaii's already tight low and middle income rental market.

Your Committee has amended this bill to limit the applicability of the Code Compliance requirement to pre-existing structures being converted to condominium status and also limiting the applicability of code compliance to those codes and ordinances in force at the time of construction.

The Committee has further amended this bill specifying that there be no variance from the codes, ordinances, etc., in force at the time of construction and to require full disclosures to buyers of any variance from county codes, ordinances, etc., applicable at the time of construction and variances from current codes, ordinances, etc.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 581, as amended herein, and recommends that it be placed on the calendar for Third Reading in the form attached hereto as S.B. No. 581, S.D. 1.

Signed by all members of the Committee except Senator Yee.

SCRep. 571 Consumer Protection and Commerce on S.B. No. 652

The purpose of this bill is to clarify the liability insurance requirements of persons who offer mopeds for rent or lease. Currently the liability limits are not to be less than \$10,000 per person and \$20,000 per accident. Your Committee is in agreement that there is confusion as to whether this law covers limits for bodily injury only or for both bodily injury and property damage. This bill clarifies the limits at \$25,000 for bodily injury per occurrence and \$5,000 for property damage per occurrence.

Your Committee has amended this bill by deleting language pertaining to agreements among insurers for certain applicants unable to procure insurance through ordinary methods since agreements for equitable apportionment are already in effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 652, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 652, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 572 Consumer Protection and Commerce on S.B. No. 691

The purpose of this bill is to provide a new repeal date for the Motor Vehicle Industry Licensing Board to December 31, 1985, under Hawaii's Sunset Law (Chapter 26H, H.R.S.).

The licensing function of this board insures that dealers meet certain requirements which are provided to minimize formation of irresponsible operations. Your Committee agrees that in exercising this function, the Board serves the welfare of the consumers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 691 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 Yee.

SCRep. 573 Consumer Protection and Commerce on S.B. No. 692

The purpose of this bill is to provide a new repeal date for the Massage Board to December 31, 1985, under Hawaii's Sunset Law (Chapter 26H, H.R.S.).

Your Committee is aware that there has been criticism of the Massage Board due mainly to their inactivity. The Board, however, now has a new president and two new board members. The Committee has decided to extend this Board until December 31, 1985 after hearing evidence that the new Board has dedicated itself to properly regulating the massage profession.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 692 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 Yee.

SCRep. 574 Consumer Protection and Commerce on S.B. No. 694

The purpose of this bill is to provide a new repeal date for the Collection Agency Board to December 31, 1985, under Hawaii's Sunset Law (Chapter 26-H, H.R.S.).

The Committee is in agreement that a license should be required before an individual can engage in the debt collection business. It is evident that without some type of regulation, large amounts of money could be absconded with by fly-by-night operators with no protection for the debtor who paid the collection agency or the creditor who sought collection service.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 694 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 Yee.

SCRep. 575 Consumer Protection and Commerce on S.B. No. 695

The purpose of this bill is to provide a new sunset date for the Elevator Mechanics licensing board.

Your Committee is in agreement that this board is in the best interest of the general public and necessary to the safety of the elevator mechanics themselves.

Your Committee has amended the bill in the following manner (1) By increasing and changing the composition of the board to consist of three licensed elevator mechanics, three lay members, not connected with or associated with the elevator or building industry and the branch manager of the Technical Inspection Branch, Division of Occupational Safety and Health, Department of Labor and Industrial Relations. (2) By requiring that the board receive, investigate, and take appropriate action with respect to all complaints regarding job performance by elevator mechanics. Your Committee is of the belief that a larger board will broaden opportunity for input of consumer complaints and that action should be taken on all matters brought to the board's attention.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. 695, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 695, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 576 Consumer Protection and Commerce on S.B. No. 696

The purpose of this bill is to postpone the expiration date of the Board of Degree Granting Institutions to December 31, 1985, under the Hawaii Sunset law.

Your Committee realizes that currently there is no board of Degree Granting Institutions. It is the Committee's opinion, however, that this is an area that should be regulated.

Consequently, the Committee favors establishing the Board of Degree Granting Institutions, consisting of all the presidents of accredited colleges and universities in Hawaii. In this regard your Committee has amended this bill by substituting the Board of Degree Granting Institutions for the Advisory Committee on degree granting institutions. Under this bill as amended, the board would have the power to review license applications from applicants who wish to award degrees, and to grant and renew licenses and temporary permits to institutions which offer instruction leading to an academic or professional degree beyond the secondary school level. The Board would also advise the Director of Regulatory Agencies of matters pertaining to the licensing of degree granting institutions.

Your Committee has established a sunset date of December 31, 1981 to further evaluate the new structure of this Board and reevaluate the need of regulation in this area.

This bill has also been amended to require unaccredited degree granting institutions to disclose its unaccredited status in all written communications and contracts.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 696, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 696, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 577 Consumer Protection and Commerce on S.B. No. 697

The purpose of this bill is to provide a new repeal date for the Boxing Commission to December 31, 1985, under Hawaii's Sunset Law (Chapter 26H, H.R.S.).

Your Committee is in agreement that extending the life of the Boxing Commission to regulate and oversee boxing activities is in the best interest of the consumer as well as to everyone who has an interest in boxing.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 697 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 Yee.

SCRep. 578 Consumer Protection and Commerce on S.B. No. 698

The purpose of this bill is to include the Pest Control Board under Section 26H, H.R.S. (Hawaii's Sunset Law).

This Board was inadvertently omitted when the Hawaii Sunset Law was enacted.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 698 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 Yee.

SCRep. 579 Consumer Protection and Commerce on S.B. No. 784

The purpose of this bill is to delete the educational requirement of four years of high school or its equivalent in order for apprentices and students to be registered and given a certificate from the board of Cosmetology.

Your Committee is in agreement that the requirement of a high school education or its equivalent should be dispensed with for apprentices and students and is therefore in agreement with this bill.

However, your Committee finds that all apprentices and students should be made aware of the educational requirements needed for licensure. Your Committee has amended this bill accordingly.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 784, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 784, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 580 Consumer Protection and Commerce on S.B. No. 881

The purpose of this bill is to increase the penalty provision under section 444-23 by including as a possible penalty the revocation of a contractor's license.

Testimony received by your Committee indicated that the present penalty might not be strict enough for wilful violators. Your Committee believes that revoking licenses will probably stop most wilful violations.

Your Committee has amended this bill by adding the word "wilfully" on line 3 and by replacing the word "shall" with "may" on line 6. The substitution of these words gives some discretion in applying the penalty provision.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 881, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 881, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 581 (Majority) Consumer Protection and Commerce on S.B. No. 885

The purpose of this bill is to allow preferred rates on property and casualty insurance to groups of persons, firms, trusts or corporations by way of employment, membership, contract or other methods. The preferred rates would not be available to groups who are formed for the sole purpose of obtaining this rate.

Your Committee is of the opinion that this bill would be beneficial to buyers since collection of premiums on a group basis would reduce the insurers' collection expenses. Losses could be lowered by loss prevention programs. The savings in expenses and losses would mean lower premiums and broader coverages.

The bill also provides that in either situation where premium payments are deducted from an insured's payroll or where an association or trust gathers such premiums and forwards them to an insurer it would not be deemed the collection of premiums by the association or trust. In addition the furnishing of information by associations or trusts pertaining to these methods of payment would not be considered a solicitation of applications for insurance.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 885 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 Yee.
Senators Ushijima, Carroll and Saiki did not concur.

SCRep. 582 Consumer Protection and Commerce on S.B. No. 922

The purpose of this bill is to allow a real estate broker to pay a commission to a licensed broker of a foreign country if such a broker does not conduct any of the negotiations for which a commission is paid in this State.

Present law allows a commission to be paid to a licensed broker of another state, but is silent regarding foreign brokers. This needs to be clarified in view of the rising number of international real estate transactions now taking place in Hawaii. Such transactions involve foreign brokers who usually represent foreign buyers and are like brokers of other states. Without this classification, a broker's license may be suspended or revoked for paying a commission to foreign brokers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 922 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 Yee.

SCRep. 583 Consumer Protection and Commerce on S.B. No. 923

The purpose of this bill is to place the obligation of carrying the minimum no-fault insurance coverage upon the lessee of a motor vehicle rather than the owner of the vehicle where the lease term is for more than one year. The bill would not affect leases of less than one year. Owners of rental vehicles would not be able to pass on the requirement

of carrying minimum mandatory no-fault insurance to their renters. This is accomplished by redefining the term "owner".

Your Committee is in agreement that the lessee under leases having terms exceeding one year, should have the obligation of providing the minimum mandatory insurance and not the person who holds the legal title to the motor vehicle. Current law may be interpreted to require the lessor to carry the minimum insurance even though the lessor has transferred that obligation to the lessee under the terms of the lease agreement.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 923 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 Yee.

SCRep. 584 Consumer Protection and Commerce on S.B. No. 924

The purpose of this bill in its original form was to delete the definition of distributor branch and the requirements that applies to distributor branches. This bill is designed to correct an inequity in the law whereby a distributor must also pay for a distributor branch license although the distributor branch is located at the same address as the distributor.

Your Committee is in agreement that an inequity exists in the law. The Committee, however, has decided to amend the definition so as to retain the term distributor branch in this section but at the same time alleviating the inequity. The new definition in part defines a distributor branch as a branch not at the same address as the distributor.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 924, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 924, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 585 Consumer Protection and Commerce on S.B. No. 946

The purpose of this bill is to give the Motor Vehicle Industry Board the discretion to waive the requirement of a performance test in the certification exam for motor vehicle mechanics. The Committee, however, considers performance tests to be essential, to be waived only under compelling circumstances and that the authority for waiver be utilized sparingly.

The Board has established ten areas of performance testing in the certification exam. Performance tests are currently being given only on brakes and electrical systems. Performance tests for other areas are currently being developed.

Testimony received by your Committee indicates that equipment needed for the other tests is not readily available and is extremely costly. It has also been indicated that in some performance testing there are not enough applicants to justify the cost involved in purchasing equipment for practical testing.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 946 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 Yee.

SCRep. 586 Consumer Protection and Commerce on S.B. No. 1116

The purpose of this bill is to allow boxing matches to be held on Sundays.

Your Committee is aware of many championship boxing matches that have been held elsewhere on Sundays. Testimony presented by the Hawaii Boxing Commission indicated that the removal of the Sunday ban could pave the way for championship boxing in Hawaii due to the strategic location relative to the television markets worldwide.

Your Committee has amended this bill by adding a definition of the term "boxing" which would include among other sports, martial arts that involve contact. The Committee is concerned about the abundance of martial arts and street fighting shows which your Committee feels should be regulated by the Boxing Commission.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1116, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1116, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 587 (Majority) Consumer Protection and Commerce on S.B. No. 1188

The purpose of this bill is to include in the subrogation rights of the insured no-fault benefits already incurred when a person effects a tort liability recovery. At present the statutes only provide for subrogation of those benefits that are paid at the time of recovery. The bill would prevent a claimant from withholding any accrued bills for no-fault benefits already incurred at the time of a tort recovery. The testimony by the Motor Vehicle Insurance Division of the Department of Regulatory Agency indicated that they had no objections to this bill.

Your Committee has amended the bill to conform to the language of the section by adding the phrase "or incurred by" on line 9, to carry out the intent of this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1188, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1188, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.
Senator Carroll did not concur.

SCRep. 588 Consumer Protection and Commerce on S.B. No. 1278

The purpose of this bill is to require contractors to execute and provide bonds with surety companies to accompany contracts on roofing work which carry a guarantee for workmanship in excess of 10 years.

Your Committee has heard testimony indicating a problem with unscrupulous operators in the subtrade. It was indicated that the Hawaii Roofing Contractors Association receives approximately 5 to 6 phone calls a month from consumers wanting to know the whereabouts of contractors that have given them a 50 or even 100-year guarantee.

Your Committee has amended this bill to make grammatical changes and has eliminated a provision calling for a copy of every contract including evidence of the bond to be on file with the Department of Regulatory Agencies. The Committee is of the understanding that there would be a problem with adequate staffing to carry out the filing and investigative function that the provision would require.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1278 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1278, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 589 Consumer Protection and Commerce on S.B. No. 1315

The purpose of this bill is to add another exemption to the Insurance Information Protection Act as to when information given to obtain an insurance policy required by a loan agreement may be disclosed to third parties.

Your Committee finds that borrowers sometimes fail to maintain or renew the required insurance, and in a situation of default, both parties incur unwanted cost and expenses. To alleviate this problem, lenders can obtain insurance coverage which would protect them by automatically insuring the collateral as soon as the borrower's policy is not in effect. However, before this coverage goes into effect, the lapsing of the borrower's policy must be discovered. To properly administer this coverage, information must be disclosed to a third party who is monitoring the insurance. This bill provides the mechanism for these purposes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1315 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 Yee.

SCRep. 590 Consumer Protection and Commerce on S.B. No. 1375

The purpose of this bill is to prohibit petroleum distributors from opening or operating nonfranchised gasoline outlets in the State with company personnel, a subsidiary company or a commissioned agent. The bill also provides a definition of retail unfranchised gasoline outlet and provides for equitable apportionment of gasoline and fuels to dealers during periods of shortage.

Your Committee after deliberation decided not to address these issues at this time. However, your Committee finds that it would be appropriate to redefine the term "shortage" in Section 125C-2 because increased vehicle registrations along with increased tourist demand for U-drive vehicles has rendered the earlier 1975 computation obsolete. Your Committee has amended the bill accordingly.

Your Committee finds that Hawaii retail gasoline dealers are experiencing shortage of supply resulting in station shutdowns. Allocations have been imposed by suppliers which are now being further decreased. The present law did not anticipate such acute shortages occurring so suddenly. Under the proposed changes should decreasing supplies occur as they are now, the State would be able to act upon the situation before all supplies were used up.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1375, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1375, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 591 Consumer Protection and Commerce on S.B. No. 1428

The purpose of this bill is to amend Section 476-33 to allow a minimum finance charge of not more than \$10 in any retail installment sale when the finance charge is stated in a dollar amount.

Under present law, this minimum finance charge is only allowable in a retail installment sale of less than \$100, when the finance charge is stated in a dollar amount. Sellers and other financial service companies who deal in retail installment contracts feel that purchases for amounts not much over \$100, i.e. \$150, will not afford them enough of a finance charge under the maximum interest rate allowable especially where the contract matures in a few months. This amendment will allow them to charge consumers the maximum interest rate allowable or a flat \$10.

Your Committee has amended the bill to correct a typographical error.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1428, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1428, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 592 Consumer Protection and Commerce on S.B. No. 1435

The purpose of this bill is to include thrift accounts as defined in Chapter 408A, the Industrial Loan Company Guaranty Act into section 408-14(6) which pertains to Industrial Loan Companies and to provide that an industrial loan company may but need not require an investor to subscribe to a certificate of a certain amount. Your Committee finds that the definition of thrift account as defined in the Industrial Loan Company Guaranty Act more clearly identifies the manner in which certificates are issued and sold by industrial loan companies than is set forth in section 408-14(6).

Your Committee additionally finds that the use of a subscription agreement requiring thrift customers to subscribe to some future sum of money they intend to invest when opening a passbook account is antiquated.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1435 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 Yee.

SCRep. 593 Consumer Protection and Commerce on S.B. No. 1438

The purpose of this bill is to allow industrial loan companies to charge up to \$15 per applicant for credit reports and processing expenses.

Credit report costs and processing expenses have usually been absorbed by industrial loan companies as a cost of doing business, while banks and savings and loans have been charging applicants up to \$35 for credit reports.

Your Committee has amended this bill so that the charge only applies to loans over \$5,000. Your Committee has also amended the bill to provide that the charges are to be paid to third parties and no portion is to inure to the benefit of the loan company.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1438, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1438, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 594 Consumer Protection and Commerce on S.B. No. 1439

The purpose of this bill is to allow industrial loan companies between 12% to 18% interest a year on the unpaid principal loan balance after maturity of the contract. These rate changes will help cover collection costs.

The bill was amended by deleting the phrase "but shall not exceed eighteen per cent a year" from lines 21 and 22 on page 4.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1439, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1439, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 595 Consumer Protection and Commerce on S.B. No. 1440

The purpose of this bill is to clarify Section 408-15(b)(4) which allows industrial loan companies to charge a late charge of 12% a year on the unpaid balance of a contractual installment.

Your Committee has amended the bill to require the loan company to give written notice of the late charge prior to the due date of the next installment and to clarify the language so that no more late charges can be assessed once the contract matures whether or not the maturity date has been accelerated.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1440, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1440, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 596 Consumer Protection and Commerce on S.B. No. 1441

The purpose of this bill is to provide industrial loan companies with additional authority to engage in open-end lending. Your Committee finds that while industrial loan companies presently engage in open-end lending existing statutory language is unclear.

The main purpose of open-end lending is customer convenience. Traditionally, industrial loan company borrowers have been tied to a fixed term loan. Customers would borrow a certain sum of money and make equal payments until the loan was repaid. If they wanted to make another loan or refinance the loan, they had to fill out a new application, new processing, and visit the company's office to sign the new loan papers. Open-end lending would alleviate these problems by allowing customers to borrow once and then use a credit line. Banks, retail stores, and some savings and loan associations all participate in some form of open-end lending.

Your Committee has amended this bill in the following respects:

(1) On page 2, line 13 of S.B. No. 1441, the word "may" has been substituted for the word "shall". The substitution is necessary to conform to the provision contained in the Federal Truth In Lending Act, 12 C.F.R. section 226.2(i).

(2) On page 9, line 4 of S.B. No. 1441, the word "and" was added before the word "or". This would allow industrial loan companies to collect from the borrower premiums for insurance on the life and disability of a borrower.

(3) On page 14, line 19 of S.B. No. 1441, the letter "(A)" has been changed to the letter "(i)". This provision would change one method of computing interest on open-end loan charges.

(4) On page 16, line 15 of S.B. No. 1441, the phrase "unpaid balances" has been changed to "entire outstanding balance". The change provides that additional charges for credit life or disability insurance shall be calculated on the entire outstanding balance rather than the unpaid balance.

(5) On page 18, line 2 of S.B. No. 1441, the following paragraph has been added to section (m).

"In the case of an open-end loan account under this chapter in which a security interest is retained or acquired in any real property which is used as the principal residence of the natural person to whom consumer credit is extended, the borrower shall have a right to rescind the open-end loan agreement until midnight of the third business day following the making of the open-end loan agreement by notifying the licensee of his intention to rescind; provided, however, that such right of rescission shall be governed by such rules and regulations as the bank examiner shall see fit in his discretion to adopt."

(6) Lines 5, 6 and 7 of page 18 of S.B. No. 1441, have been deleted. That provision provided that compliance of an industrial loan company with the provision of chapter 408 with respect to open-end loans would be deemed to be compliance with chapter 476, Retail Installment Sales.

(7) Section 5 of S.B. No. 1441, has been changed so that good faith reliance must be made on a State Supreme Court decision or rule or regulation duly adopted by the bank examiner or his deputy pursuant to chapter 91.

Your Committee has amended this bill to make nonsubstantive technical changes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1441, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1441, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 597 (Majority) Consumer Protection and Commerce on S.B. No. 1634

The purpose of this bill is to require labeling on food previously frozen which is offered for sale.

The bill also adds a new section which defines "thawed food" as food previously frozen at a temperature of, or below thirty-two degrees fahrenheit. Thawed food which resembles the physical appearance of frozen food must be labeled so that it is easily identifiable. However, foods which have been processed by grinding or dehydration are exempt. The existing exemption on canned, pickled or preserved foods or foods shipped outside Hawaii is removed.

Your Committee has amended the bill to clarify the existing statute.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1634, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1634, S.D. 2.

Signed by all members of the Committee except Senator Yee.
Senator O'Connor did not concur.

SCRep. 598 Consumer Protection and Commerce on S.B. No. 1752

The purpose of this bill is to revise the requirements which must be fulfilled prior to issuance of a CPA certificate.

Under present law, as a prerequisite to taking the CPA exam, an applicant must have a baccalaureate degree from a college or university recognized by the board of accountancy and have completed at least 30 semester hours of additional study or expect to meet those educational requirements within 120 days following the exam.

The bill would allow an applicant to take the exam if he expects to complete the minimum educational requirements (not including the 30 additional hours) within 120 days of the exam. However, a CPA certificate would not be issued until the 30 hour requirement is fulfilled, within a time period to be established by rules of the board.

Your Committee finds that applicants to take the CPA exam should have obtained their baccalaureate degrees and that the additional educational requirements for certification are necessary to assure basic competency in the field. However, your Committee believes that applicants should be given an extended period in which to complete the 30 semester hours. Your Committee has provided for a two year period with discretion given to the board to extend the time limit in appropriate cases.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1752, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1752, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 599 Consumer Protection and Commerce on S.B. No. 1769

The purpose of this bill is to require licensing of all speech pathologists and audiologists in the State.

Presently, speech pathologists and audiologists employed by the local, State and Federal governments are exempted from applying for licensing under Chapter 468E. This bill would make it necessary for mandatory licensing under Chapter 468E for all speech pathologists and audiologists. However, the eligibility requirements for licensure will be waived for speech pathologists and audiologists employed by the local, State or Federal governments on January 1, 1980.

This bill will insure a high quality of service to the community in the fields of speech pathology and audiology.

Your Committee received testimony from the department of education expressing its concern as to the availability of speech pathologists meeting the requirements under Chapter 468E, and the hiring of qualified speech pathologists at this time. The department has been experiencing a dearth of speech pathologists with masters degrees because of the increased demand for speech pathologists due to federal mandates, and has found that it would be unable to fill its needs for speech pathologists with masters degrees due to the present void. However, the DOE is strongly in favor of insuring a high quality service and recommends that it be allowed to hire speech pathologists from the date this bill is in effect through Jan. 1, 1982 without masters with the condition that these new employees will need to meet these requirements by Jan. 1, 1982. If they do not meet these requirements their license will be revoked. We have amended this bill accordingly.

We have also made some technical adjustments to clarify the language and to correct typographical errors but have not changed the original intent.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1769, S.D. 1, and recommends that it be placed on the calendar for Third Reading in the form attached hereto as S.B. No. 1769, S.D. 2.

Signed by all members of the Committee except Senator Yee.

SCRep. 600 (Majority) Consumer Protection and Commerce on S.B. No. 1778

The purpose of this bill is to amend section 457-7 to prevent denial of a license to practice as a registered nurse to those persons who have met the other required qualifications but who do not hold a baccalaureate degree.

There exists a shortage of nurses in rural areas of the State and because of their locale, these areas have been unable to fill their nursing positions. Your Committee recognizes that to become a registered nurse does not necessarily require a baccalaureate degree. Although it is the present practice of the State to issue licenses to persons meeting the educational requirement without a baccalaureate degree, your Committee finds that this

bill is needed to insure that this practice continues for the benefit of the State and its rural areas, where shortages of nurses exist.

Your Committee has amended the bill to correct technical errors.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1778 as amended herein and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1778, S.D. 1.

Signed by all members of the Committee except Senator Yee.
Senators Kuroda, O'Connor, Ushijima and Saiki did not concur.

SCRep. 601 Judiciary on S.B. No. 168

The purpose of this bill is to provide statutory framework for grand jury proceedings setting forth the essential rights of witnesses and potential defendants.

Your Committee acknowledges the salutary effect of the provisions of this bill which will allow for the first time a brief but necessary comprehension by the public of the essentials of the grand jury's functions. Senate Bill No. 168 provides that the prosecution shall present evidence favorable and unfavorable to the defendant, thereby allowing a fair balance to the accusatory process. It also defines the right of witnesses and potential defendants to their right of counsel.

We made one change to S.B. No. 168 in its original form by providing a brief discussion of the function of the grand jury counsel. It is to be noted that such counsel's function is to aid the grand jury, but not to engage directly in the questioning of the witnesses or the prosecution.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 168, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 168, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Campbell.

SCRep. 602 Judiciary on S.B. No. 273

The purpose of this bill is to require any accused in a criminal prosecution who seeks to interpose the defense of "use of force in self-protection" and "use of force for the protection of other persons" provided by sections 703-304 and 703-305, Hawaii Revised Statutes, to carry the burden of proving such defense by a preponderance of the evidence.

At the present time, such defenses when asserted by the accused requires no burden on his part as to the weight of evidence he must produce to be entitled to such defense. Rather, such defense may be asserted merely with the intent to utilize such evidence as he may have in assertion of his right to be acquitted on the claim of failure of the prosecution to have proven each element of the crime "beyond a reasonable doubt".

Your Committee is aware that the issue of affirmative defenses in criminal procedure is one that has attracted much legal scholarship in recent years. See Affirmative Defenses in Ohio after Mullaney v. Wilbur, 36 Ohio State Law Journal, 828 (1975); The Restoration of In re Wisslip: A Comment on Burdens of Persuasion in Criminal Cases after Palleism v. New York, 76 Mich. Law Rev. 30 (1977); The Constitutionality of Affirmative Defenses to Criminal Charges, 29 Ark. Law Rev. 429 (1976).

The heart of the controversy in the issue of "affirmative defense" lies in the time-honored rule in criminal jurisprudence that in protection of the innocent, the prosecution must prove each element of the crime beyond a reasonable doubt. The arguments directed against affirmative defenses are that they dilute the prosecution's burden in this regard and swing the balance of the criminal trial against the presumption of innocence.

However, legal scholarship generally favors the resort to affirmative defenses where "the relative accessibility of evidence to the defendant justifies calling upon him to put in evidence concerning his defensive claim." La Fave and Scott, Criminal Law, 1972 at page 154.

The converse of the reasoning is addressed to the question whether the nature of the defense would negate an element of the crime and thus nullify the normal prosecutorial burden. See 36 Ohio State Law Journal at 838, also La Fave and Scott, at page 154.

Your Committee notes that the defense of self-defense, as with the defenses of duress

and choice of evils, admit the commission of the act charged with all necessary elements, but seek to interpose the existence of a state of facts that would provide the basis of acquittal. It is our view, accordingly, that the accused should have the burdens of coming forward with the evidence and of establishing such defense by the preponderance of evidence for the claim of self-defense. In this regard, S.B. No. 273 is in accord with the law in Ohio.

We also note that the nature of the defenses to be governed by S.B. No. 273 are essentially accessible to the accused, such that fairness would require the burden of fact finding should rest with the accused.

Your Committee is aware that the Arkansas Supreme Court had held to the contrary in *Mode v. State*, 330 S.W. 2d 88 (1959). That decision ruled that the defendant could not be required to bear the burden of proof on the defense of self-defense because it would tend to rebut the element of malice. We think, however, that the discussion found in an article in the Ohio State Law Journal is better reasoned. It says:

"If any class of defenses deserves the title of "affirmative," it is those defenses that admit the commission of the act charged with the necessary mental element, but seek to interpose the existence of a state of facts that, if true, would provide a complete exculpation. The traditional defenses of duress, necessity and self-defense are common examples. Unless one is willing to draw the concepts of volitional act and mental element quite broadly, these defenses do not negate either concept. In that respect they are analogous to the common law of confession and avoidance; they admit the truth of the facts pleaded but offer an excuse." 36 Ohio State Law Journal 828, at 840-41.

Your Committee also notes that S.B. No. 273 does not include some of the other defenses under chapter 703, Hawaii Revised Statutes, within its ambit. We would hope that experience under S.B. No. 273, if enacted, may provide the quantum of experience by which a future legislature may consider expanding the concept of affirmative defense.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 273 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 Campbell.

SCRep. 603 Judiciary on S.B. No. 182

The purpose of S.B. No. 182 is to make revisions in section 706-606.5, Hawaii Revised Statutes, dealing with sentencing of repeat offenders.

Your Committee heard testimony from the Honolulu Police Department, who stated that their experiences and data indicated that a minor percentage of offenders were responsible for a major percentage of property and violent crimes. In a 1974 Honolulu Police Department study, "The Repeat Offender Syndrome", it was reported that out of 513 persons arrested in the sample offenses, 400 or 78 per cent were repeat offenders. While arrest does not necessarily indicate conviction, follow-up studies indicated the same pattern in convictions. These conclusions were also supported by the F.B.I. Uniform Crime Reports.

In light of the above statistics, one may conclude that there has been a failure of the criminal justice system to deal with the repeat offender problem adequately. Research and practice to date have been unable to pinpoint a viable intervention method to curb the tendency of individuals to display a consistent pattern of criminal behavior. Mandatory sentencing provides a practical solution to the problem incapacitation will restrict a repeat offender from committing further crimes in the community-at-large.

Rehabilitation has recently come under severe criticism as not sufficiently coping with our repeat offender problem. In passing S.B. No. 182, your Committee feels that rehabilitation should be reserved for those deserving of such treatment, while incapacitation in the form of mandatory minimum sentencing be the norm for those who demonstrate a disregard for the trust and responsibility given to them following prior criminal incidents.

S.B. No. 182 was amended to retain the offenses enumerated in section 706-606.5, as including all class A or class B felonies was considered to be overly broad. The further expansion of the mandatory minimum sentencing on page two of the bill was also omitted for the same reasons. One of the major concerns expressed by those speaking against the bill was the increased cost that must be incurred. Our correctional facilities are already full and an overly broad application of the law would make a difficult situation impossible. In any case, the public must realize that minimum mandatory sentencing in any form will require additional money spent to provide for the increased prison population.

Your Committee also amended S.B. No. 182 to state that the sentencing court may apply the sentences consecutively or concurrently. While this is a statement of the present law, the additional inclusion of "concurrently" may allow for more discretion on the part of the judge.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 182, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 182, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 604 Judiciary on S.B. No. 1241

The purpose of this bill is to provide that the State shall be a necessary party to all actions to quiet title.

It is the finding of your Committee that requiring the State to be a party in any action brought under section 669-1, Hawaii Revised Statutes, is necessary to a complete resolution of the issues involved in such action.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1241 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 Campbell.

SCRep. 605 Judiciary on S.B. No. 1238

The purpose of this bill is to effect changes to chapter 671, Hawaii Revised Statutes and to improve the hearings procedure of the Medical claim conciliation panels ("MCCP").

The current law does not designate which party has the burden of going forward with evidence to substantiate its case. This has led to the untenable situation where parties present before the MCCP may both refuse to advance their cases, and the hearing becomes a travesty.

S.B. No. 1238 provides that the MCCP may designate the party that has the burden of going forward with the evidence, or, if the claimant has received medical and hospital records for review, he shall have the initial burden.

Your Committee has also amended section 671-14 to exclude the insurance company representative from the list of persons mandated to attend the MCCP hearing. Experience has shown that the representative is not really a necessary party for the purposes of the hearing.

S.B. No. 1238 was amended to require notice to all parties if a subpoena is used to require testimony of witnesses or the production of documentary evidence. The amendment alleviates the present occasional practice of one party subpoenaing records without notice to the opposite party. The opposing party may either be surprised at the record introduction or else goes to a further expense of subpoenaing the same records.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1238, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1238, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 606 Judiciary on S.B. No. 1339

The purpose of this bill is to bring manufacturers, materialmen and others involved in improvements to real property into the ambit of protection afforded by section 657-8 in placing a statute of limitations upon action to recover damages for injury to property or person arising out of improvement to real property.

A very comprehensive explanation of S.B. No. 1339 was provided your Committee by Wesley W. Ichida, Esq. and as his presentation is difficult to improve upon, we quote extensively from that submittal:

"The predecessor statute to section 657-8 was originally enacted in 1967. It provided protection to "any registered and/or duly licensed person performing or furnishing professional or licensed services in the design, planning, supervision, or observation of construction of the improvement to real property," but did not protect owners, lessees, manufacturers

and materialmen. In a 1973 decision, the State Supreme Court struck down the 1967 statute as a violation of the Equal Protection Clauses of the state and federal constitution. Fujioka v. Kam, 55 Hawaii 7, 514 P.2d 568 (1973). Specifically, it held that the legislature's failure to include owners among those protected by the statute was an improper discrimination invalidating the provision.

In 1974, the legislature amended the 1967 statute to meet what was perceived to be the Court's objections by adding the owner and others with an interest in the real property to the class of protected persons. The amended provision did not, however, include manufacturers and materialmen. As explained in the Committee reports, the legislature believed that manufacturers and materialmen reasonably constituted a separate and distinguishable class and, thus, did not have to be included within the protection of the statute.

We think the 1974 legislature's decision to exclude manufacturers and materialmen from the ambit of the statute was sound. However, in mainland cases where statutes similar to Hawaii's have recently been tested, there have been a number of decisions holding such an exclusion to be a violation of equal protection. Though these cases are a minority of the reported decisions, it does raise a question as to the validity of the present law.

To resolve the constitutional doubts concerning section 657-8, S.B. No. 1339 would amend the statute to broaden its scope to include manufacturers, materialmen and others involved in improvements to real property. The intent is to have the statute apply to all persons who can, by a sensible reading of the words, be brought within its ambit. The only persons excluded would be owners in suits based on their negligent conduct in the repair or maintenance of the improvement and surveyors in suits based on their own errors in boundary surveys. These exclusions exist in the present law and are merely carried forward in the amendment.

S.B. No. 1339 also clears up some of the problems the courts have had in interpreting the present statute by providing a definition of the terms "improvement" and "date of completion." Further, to clarify when the limitations period begins to run, it is provided that the filing of an affidavit of publication and notice of completion with the Circuit Court shall be prima facie evidence of the date of completion. This is, in essence, the policy Circuit Judge Arthur S. K. Fong has been following in cases that have come before him and, thus, merely codifies present practice. Lastly, S.B. No. 1339 liberalizes the present law by extending the limitations period an additional period of time in situations where a person is injured in the fifth or sixth year of the statutory period. Thus, if someone were injured on the last day of the six-year period, he would be granted an additional two years to file his action."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1339 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 Campbell.

SCRep. 607 Judiciary on S.B. No. 1510

The purpose of this bill is to give agents or representatives of the Department of Attorney General, engaged as State law enforcement officers the same powers as police officers.

Your Committee amended S.B. No. 1510 to also include the same benefits and privileges as police officers to these State law enforcement officers.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1510, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1510, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Campbell.

SCRep. 608 Judiciary on S.B. No. 1680

The purpose of this bill is to revise chapter 843, Hawaii Revised Statutes, so as to (1) establish a privilege from civil liability for the crime commission and its staff for actions done or statements made in the course of their duties; (2) allow the commission to manage reward money; and (3) enable it to obtain appropriate information from governmental agencies.

Your Committee understands that it is not the purpose of this bill to create an absolute privilege which would protect the commission chairman, members and staff from civil liability for things done or said with actual malice. For that reason, we have amended

section 1 of S.B. No. 1680 to create a qualified privilege by adding the phrase "except when done or made with actual malice" after the word "chapter" on lines 7 and 8 of page 1. It is the Committee's intent by this amendment to clearly exclude actual malice from the scope of the immunity created.

Upon inquiry, your Committee also learned that the commission's purpose in proposing the language change with regard to section 843-5 is to allow it to manage reward money that is sometimes offered for the apprehension of a criminal. The bill has been amended to so provide.

Finally, your Committee heard testimony in opposition to the commission's request by this bill to require other state and county agencies to provide information to the commission. Let it be said that the legislature expected thorough and fluid communication and cooperation among all pertinent governmental agencies in the war against crime. For any agency to do less would constitute a shameful dereliction of duty. It is obvious that the crime commission can only be as successful as the information it obtains. Accordingly, your Committee is in full harmony with the requested language change for section 843-6.

However, your Committee is aware that a substantial part of obtaining such information requires thorough confidence in the source from which it is obtained, and that where such confidence is lost, a very important part or phase of the war against crime can suffer irretrievable loss. It is also understandable that where personal danger might be risked by the source of information, the agencies associated with the contact should seek to maintain confidentiality.

This is a very delicate matter and one that is not easily treated by statute. Rather, it must be expected that the commission will couch its request for information in such a way that the confidentiality of such sensitive sources of information will be protected and the agency and its personnel providing such information should be similarly protected.

Your Committee expects that all of the governmental agencies will work harmoniously across inter-governmental boundaries in the war against crime.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1680, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1680, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Campbell.

SCRep. 609 Judiciary on S.B. No. 1702

The purpose of this bill is to facilitate service of process in actions to quiet title under Chapter 669, Hawaii Revised Statutes, where a condominium is joined as an adjoining property owner defendant.

S.B. No. 1702 will allow the service or process to be made upon "the person designated in the declaration" of horizontal property regime. We think this makes a lot of sense, and reflects reasonable effort on the part of the party litigant to give notice to owners of the condominium units.

S.B. No. 1702 has been amended for clarity.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1702, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1702, S.D. 1.

Signed by all members of the Committee.

SCRep. 610 Judiciary on S.B. No. 889

The purpose of this bill is to allow the use of a new simplified form for fire insurance policies.

The bill amends section 431-420, Hawaii Revised Statutes, to permit insurers to issue fire insurance policies other than the New York 1943 Standard Form presently required by law. It will allow insurers to use the New York 1943 Standard Form or a form which is substantially equivalent to, or more favorable to the insured, than the standard form.

Your Committee wishes to emphasize that the phrase substantially equivalent would mean with respect to the perils of fire and lightning, coverage not less than that contained in the New York 1943 Standard Form.

The department of regulatory agencies and the Hawaii Insurance Council testified before your Committee in favor of this bill. The department noted that a growing number of states are requiring insurance policies be written in a more understandable form. Further, insurers are expending considerable time and money revising their forms. Unless section 431-420, Hawaii Revised Statutes, is amended, introduction of these improved, more understandable fire insurance forms will not be possible in Hawaii.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 889, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Campbell.

SCRep. 611 Judiciary on S.B. No. 1184

The purpose of this bill is to establish a system of voluntary receivership of persons upon whom attachment, garnishment, and like proceedings under chapters 651, 652, 653, and 654, Hawaii Revised Statutes, have been brought. During such receivership, which is to exist during the time the debtor continues to pay as the court shall determine, the debtor is freed from proceedings being brought against his personal earnings. If the receivership is terminated by the debtor's failure to pay, he is not allowed to file a new trusteeship for six months.

The debtor's secured creditors are allowed to voluntarily participate in the trusteeship. If they do, they are estopped from asserting their liens as long as the debtor complies with the payment requirements. A nonparticipating creditor is not prohibited from recovering judgment against the debtor. He is prohibited from bringing proceedings in attachment, in aid of execution or other action to subject personal earnings to payment of claims. The debtor's secured creditors are to be given notice of the filing of such trusteeship and his failure to answer will constitute election to participate.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1184 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 Campbell.

SCRep. 612 Judiciary on S.B. No. 1191

The purpose of this bill is to make trespassing in or upon commercial premises after proper warning or request to leave a form of aggravated trespass. It makes the commission of such an offense criminal trespass in the second degree. Criminal trespass in the second degree is a petty misdemeanor.

Your Committee received testimony from several retail merchants, retail merchant associations, and shopping centers. The thrust of this bill is to provide these groups with an effective legal means of stopping and removing convicted or professional shoplifters, professional solicitors, and other similarly disruptive persons from their premises.

It is hoped that this will assist merchants in reducing their annual shrinkage and result in their passing on the savings to consumers.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1191 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 Campbell.

SCRep. 613 Judiciary on S.B. No. 1539

The purpose of this bill is to clarify the operation of what is familiarly called the "Good Samaritan Law."

Under present law, there appears to be some confusion as to whether physicians and life support personnel are intended to be included in the ambit of the protection against civil liability offered by the "Good Samaritan Law" to persons responding to emergency situations without expectation of remuneration.

The amendments made to the original form of the bill by S.B. No. 1539, S.D. 1 constitute language changes only, and do not change the substance of the original bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1539,

as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1539, S.D. 1.

Signed by all members of the Committee except Senator Campbell.

SCRep. 614 Judiciary on S.B. No. 1650

The purpose of this bill is to clarify certain provisions for merger and consolidation of corporations to reflect long-standing corporate practice in Hawaii.

Recent legal decisions have questioned some of these practices and this bill clarifies those decisions. In particular, where the merger or consolidation agreement provides for distribution of cash, property, or assets, distribution can also include an exchange of said property, shares, or assets.

Your Committee has amended the bill to include a recital of section 417-3, Hawaii Revised Statutes, and appropriate amendment to that section to effectuate the purpose of the bill, as introduced.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1650, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1650, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 615 Judiciary on S.B. No. 32

The purpose of this bill is to amend Chapters 334 and 348 of the Hawaii Revised Statutes to broaden the definition of "treatment" as that term is used in these statutes to include domiciliary care of handicapped persons.

The Constitutional Convention of 1978 proposed certain language changes to what was Article VIII, Section 2 and what is now Article IX, Section 2 of the Hawaii State Constitution. In doing so, the phrase "domiciliary care" was deleted upon the thought that the words "treatment and rehabilitation" contained in Article IX, Section 2 was broad enough to include such care.

This bill effects the necessary statutory change in order to obviate any concern that the deletion of such words may be construed to exclude domiciliary care of handicapped persons.

This bill has been amended in its purpose clause to clarify the intent of the legislature that domiciliary care shall be provided for all handicapped persons and not merely those who require mental health care.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 32, S.D. 1, as amended herein and recommends that it pass Third Reading in the form attached hereto as S.B. No. 32, S.D. 2.

Signed by all members of the Committee.

SCRep. 616 Judiciary on S.B. No. 446

The purpose of this bill is to validate consent by a minor to provision of medical care and services relating to pregnancy and family planning. At present, minors may consent to medical care and services for venereal disease. The bill also gives the treating physician the discretion to inform the spouse or parents of minor patients of the provision of medical care and services or information relating to such care and services, after first consulting with the minor. If the minor is not pregnant or is not afflicted with venereal disease, no information may be disclosed without the consent of the minor.

Central to the problem sought to be resolved by S.B. No. 446 is a seeming confrontation between the important rights of adolescents and the rights of their parents. There has been nothing so sacred in the lives of the people of Hawaii than the cherished relationship that must be preserved in any human community between children and their parents.

Your Committee echoes the serious and very important concern expressed by your Committee on Health in its Standing Committee Report No. 270 to the effect that "the physician involved with the delivery of (family planning) services to the minor should attempt to involve both the minor and the entire family as much as possible."

We have reviewed and have given serious attention to the testimonies submitted by Edward J. Bybee, Esq.; Dr. Roy G. Smith and Ms. Lorraine Stringfellow of the School of Public Health and Medicine at the University of Hawaii; The American Civil Liberties Union; Hawaii Planned Parenthood; National Organization for Women; Women's Legislative Coalition; Ms. Dianne F. Kay of Hana Pono Political Action Caucus, Inc.; Hawaii Medical Association; Ms. Valerie Humphries of the Windward Action Group; and the Director of Health, Mr. George Yuen.

Your Committee notes that S.B. No. 446 has been very ably briefed by both sides of the question, and we express our thanks to all persons who have contributed in that regard. We would also observe that we are aware of the status of Doe v. Irwin, 441 F.Supp. 1247 which is presently on appeal to the sixth circuit court and the present litigation locally by Kaneshiro v. Yuen, Civil No. 78-0023 in the United States district court for the district of Hawaii.

Nonetheless, we express approval of the view expressed by your Committee on Health for the following reason. We do not intend that S.B. No. 446, S.D. 1, when enacted, should be implemented in disregard of the rights of parents to communicate with and give appropriate guidance to their adolescent children respecting family planning. In fact, we cannot urge more insistently that every parent should do so, realizing that for some of us it may be a difficult and delicate endeavor.

Your Committee's main focus of concern is not upon parents who would seek to exercise their right to give appropriate guidance to their children. Rather, your Committee's concern falls upon the adolescent young women who either, unfortunately, lack such guidance or who are, for unknown reasons, unable to tune in to such counsel. We think that parents who are able to reach their children will not suffer by this bill, and that those whose children would not hear their counsel will be grateful if such counsel reached their wards through competent professional sources.

We would reiterate however, that every effort should be made in the implementation of S.B. No. 446, S.D. 1 to encourage and facilitate counseling of adolescents by their parents.

We have effected a change in the original form of S.B. No. 446 to better clarify the definition of "family planning services."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 446, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 446, S.D. 1.

Signed by all members of the Committee except Senator Campbell.

SCRep. 617 Judiciary on S.B. No. 919

The purpose of this bill is to allow the Criminal Injuries Compensation Commission Annual Report and its annual budgetary bill, to be prepared and submitted without listing the names of the awardees.

Your Committee appreciates that the mere spectre of the possibility of being subjected to the publicity involved in the listing of one's name could deter a victim from seeking rightful compensation for a criminal injury inflicted upon the victim. This is particularly true of a victim who may have been subjected to a very shameful ordeal, or one who may be of a timid nature.

It was never the intent of the legislature that criminal compensation would result in an additional ordeal for a victim of crime or to expose such victim to unnecessary publicity.

However, we would caution the Criminal Injuries Compensation Commission that it is expected to retain a record of its awards and proceedings so that at any time, the legislature may obtain a reasonably thorough record of its affairs for purpose of public accounting.

S.B. No. 919 has been amended to require the Criminal Injuries Compensation Commission to include in its report to the legislature, the names of all attorneys and health care providers when such persons are the applicants.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 919 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 Campbell.

SCRep. 618 Judiciary on S.B. No. 1333

The purpose of this bill is to modify the definition of "motor carrier" to include certain private carriers of passengers, and to provide the Department of Transportation with a means to enforce compliance with the motor carrier safety law and rules and regulations adopted as authorized.

Your Committee finds that the purpose of the bill can be better met by retaining the existing definition of a "motor carrier" and by adding the proposed exceptions to those listed under Section 286-207 H.R.S. The bill has been amended accordingly.

Your Committee further finds that when the motor carrier safety function was the responsibility of the Public Utilities Commission, investigators of the Department of Regulatory Agencies, with powers to issue citations or summons, were used to enforce the motor carrier safety requirements. The Department of Transportation testified that the transfer of the motor carrier safety responsibility to the Department of Transportation did not provide for similar enforcement powers. The department feels that the enactment of this bill will grant similar powers to the Department of Transportation investigators to enforce compliance with the motor carrier safety requirements.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1333, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1333, S.D. 1.

Signed by all members of the Committee except Senators Campbell and Chong.

SCRep. 619 Judiciary on S.B. No. 1161

The purpose of this bill is to provide statutory guidelines for the awarding of attorney's fees to the prevailing party who has been victimized by a suit sought or defended in a frivolous and harassing manner.

S.B. No. 1161 sets out the criteria and procedures by which attorney's fees are to be awarded and limits the same so as not to exceed the money award of the case involved.

Your Committee amended the original form of S.B. No. 1161 by deleting reference to criminal actions and to confine the allowance of attorney's fees only in frivolous and harassing manner.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1161, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1161, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 620 (Majority) Judiciary on S.B. No. 390

The purpose of this bill is to amend the Constitution of the State of Hawaii to provide for initiative.

Initiative is the process through which the electorate, by petition, may propose legislation or Constitutional amendments and enact the same by direct vote of a majority of the people. Initiative provides the citizenry with the opportunity to ventilate community sentiments and offers a means to gauge public opinion on subjects of controversy.

S.B. No. 390, S.D. 1, provides a form of indirect initiative which would require the completed petition to be submitted to the legislature for consideration. The subject matter of these initiatives may not be used to repeal any appropriation of public funds or to make, amend or repeal the levy of taxes.

For statutory enactments or revisions, a petition must be signed by at least 10% of the registered voters in each of two counties in the State. For Constitutional amendments, the petition must be signed by at least 12% of the registered voters in two counties.

These petitions would then be submitted to the chief election officer for verification of the required number of signatures. If so certified by him, the petition would then be transmitted to the legislature.

If the petition is for statutory revisions and the legislature does not act on the subject, the issue shall automatically be placed on the ballot. If the legislature passes an Act substantially similar to the initiative proposal the issue shall not be placed on the ballot.

The completed petition for Constitutional amendments would be submitted to the legislature, which must enact the proposed measure or place it on the ballot at the next general election. If not enacted into law, the legislature may amend the proposal and, as provided in S.B. No. 390, S.D. 1, both the original version of the statute and the amended one would be submitted to the Supreme Court. The Court would then decide as to whether the legislature had made a substantial change to the original proposal. If the feeling of the Court is that a substantial change has been made, both versions of the proposal will be placed on the ballot. If there was no substantial change, only the legislature's version would be submitted to the electorate for vote. The proposal must be ratified by a majority of all the registered voters, at the next general election.

In arriving on our decision, your Committee relied in part on the excellent research of Senator Mary George on initiative experience in other states, and on Direct Democracy by Laura Tallian, and National Initiative and Vote of Confidence (Recall) edited by E. Koupal.

Your Committee has reviewed the experience of the 21 states across the country who have adopted some form of initiative, and has concluded that S.B. No. 390, S.D. 1, is an effective means of providing citizens with an opportunity to directly address important issues, while keeping costs to a minimum and assuring that needless material does not clutter the ballot.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 390, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 390, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Takitani.
Senator Ushijima did not concur.

SCRep. 621 Judiciary on S.B. No. 522

The purpose of this bill is to improve the laws pertaining to the possession, manufacture, sale, and the like respecting firearms of all types, silencers, and electric guns. It provides that persons violating such restrictions:

- (1) shall be guilty of a felony;
- (2) shall receive a minimum jail sentence varying from one to two years;
- (3) shall not be allowed to receive a suspended sentence or fine in lieu of imprisonment;
- (4) shall not be placed on probation;
- (5) shall not be eligible for parole during such minimum sentence; and
- (6) shall serve such term of imprisonment consecutively with any imprisonment required by conviction of any other felony occurring in connection with firearm possession.

Your Committee hopes that S.B. No. 522, when enacted, will be widely publicized to put the criminal world on notice that mandatory incarceration will be faced by any who violate Hawaii's firearms laws.

We would not, however, that legal possession and handling of pistols and firearms is permissible by licensed hunters if conducted in compliance with fish and game regulations. The bill also continues the present practice of allowing the police to issue general permits under special situations where the possession of arms may be warranted. Thus, the target of this bill is clearly to proscribe the criminal element who are leeches upon our society.

Your Committee has effected two changes to S.B. No. 522 in its original form. First of all, we have eradicated the potential ambiguity respecting the manufacture, possession, and use of silencers. As originally drafted, it was possible that the penalty provision addressed in that regard, although in the category of class A felony, may be construed to allow a lesser minimum imprisonment than with respect to the class C felony offenses covered by section 134-8. Such a construction would be anomalous. However, to erase all doubts, the language has been modified to address the same restrictions against suspended sentence and the like to the manufacture, possession, and use of silencers.

The other change is addressed to the possession of electric guns. In this instance, your Committee acknowledged the lesser lethality of such devices and simply changed the penalty to a class C felony without the more stringent restrictions against suspended sentence and the like.

Finally, your Committee observes that the interest of another bill, S.B. No. 485, is effectuated by S.B. No. 527, S.D. 1 and obviates the necessity for the passage of S.B. No. 485.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 522, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 522, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 622 Judiciary on S.B. No. 664

The purpose of this bill is to provide mandatory wage assignment upon a showing that a parent who had been ordered to pay child support is in arrears in an amount equal to three months' payment. It also provides that the arrearage must have accumulated in the previous 24 months.

Under the present law, the assignment of wages in child support cases may only be made upon a finding by the court that the person previously ordered to pay support is now in contempt. It means that the individual would have a criminal charge on his record if he was found in contempt. Your Committee feels that this should not be the case and that creating a criminal record for the delinquent parent should not be a prerequisite to child support by assignment in all cases.

The Department of Social Services and Housing testified in favor of the bill before your Committee. They testified that practical experience has shown that in most cases the individuals involved in these situations find assignment a helpful budgeting device. Moreover, your Committee believes this change to a more automatic form of wage assignment is in the best interests of the children involved.

To date, 18 states have adopted automatic wage assignment statutes.

Your Committee has made one amendment to S.B. No. 664 deleting the word "shall" and inserting the word "may" on line 7, page 4 to make it clear that whether or not such wage assignment has priority as against any garnishment, attachment, execution, or other assignment is within the discretion of the court.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 664, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 664, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 623 Judiciary on S.B. No. 891

The purpose of this bill is to coordinate the efforts of the government and private insurers in arson investigation to combat the growing incidence of arson-for-profit fires in Hawaii. If adopted, the bill will provide civil and criminal immunity to insurers and others when they provide certain information pertinent to arson investigations to law enforcement officials.

According to testimony presented to your Committee by the Fire Investigation Unit of the Honolulu Fire Department, Honolulu has recently experienced an alarming increase in malicious fires. Maliciously started structural fires have increased from 251 in 1975 to 333 in 1976, to 356 in 1977, and finally to 376 in 1978. Dollar losses within this four-year period have increased from \$1,483,000 in 1975 to \$4,346,000 in 1978. These statistics only reflect malicious burning of structures. It is clear to your Committee that greater law enforcement assistance is needed in this area.

It has been shown across the nation that one of the prime motives in committing arson is the filing of fraudulent insurance claims. This bill will give county fire investigation units access to insurance records presently closed to protect the privacy of insurance claimants. Inflated or sudden changes in insurance coverage, or a history of fire loss claims usually indicates a need for closer investigation. In reviewing and piecing evidence together, the lack of insurance records and other evidence gathered by insurers has always left a void in carrying out a full fire investigation. Passage of this bill will fill this void.

Your Committee is not unconcerned with the possible infringement of privacy of citizens. However, fire investigations have always been conducted in strict confidence. The privacy of unfortunate but law-abiding citizens who suffer fire losses will remain protected with

the adoption of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 891 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Campbell.

SCRep. 624 Judiciary on S.B. No. 1042

The purpose of this bill is to clarify the law on the allowance of costs to the prevailing party in legal action.

Your Committee is indebted to Leigh Wai Doo, Esq. for his help in providing much of the text of S.B. No. 1042, S.D. 1 which is the bill in its long form. We understand that such language reflects current practice in our courts and enumerates the various items that may be awarded the prevailing party by way of costs.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1042, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1042, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 625 Judiciary on S.B. No. 1169

The purpose of this bill is to allow consuls and officials representatives of territories of the United States of America to use special license plates.

Your Committee acknowledges that this privilege of using special license plates is already given to consuls and official representatives of foreign governments. This bill extends the privilege to territories of the United States. Once a territory ourselves, it is fitting that we extend this gesture of aloha to our territorial neighbors. The bill also gives the option of using such special plates to the foreign or territorial official.

Your Committee amended S.B. No. 1169 to include a provision requiring the registration of the special license plates with the county and the payment of appropriate fees for the transaction.

Your Committee further amended S.B. No. 1169 to delete the provision which allowed the foreign or territorial official to retain his special plate after he transfers ownership of the vehicle to which the plate was assigned.

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.

SCRep. 626 (Majority) Judiciary on S.B. No. 1218

The purpose of this bill is to effect certain technical changes in the election laws. S.B. No. 1218 is basically a "housekeeping measure" with the exception of section 11-132 which pertains to electioneering on election days.

Your Committee has received testimony from the Association of Clerks and Election Officers of Hawaii that the present law with regard to electioneering on election days (section 11-132) is for the most part unenforceable. The Association recommends that electioneering rather than being prohibited within a 1,000-foot radius from a polling place, be eliminated altogether on election days.

Your Committee has accordingly amended section 11-132 to ban all electioneering on election days. Electioneering has been defined on page 9 lines 19 to 23 as:

"door-to-door campaigning, pamphlet or leaflet distribution, political sign holding or hand waving, car caravans, or any other campaigning exclusive of radio, television, newspaper, or other media communication."

It is the intent of your Committee to allow all media communication on election days such as radio and television, but to prohibit all other forms of organized political campaigning

S.B. No. 1218 has also been amended with regard to the date nomination papers will

be available to prospective candidates. Upon recommendation of the Association of Clerks and Election Officers of Hawaii, nomination papers in a regular election year shall be available from the first working day of February, and for special election years sixty days before the end of filing of nomination papers. This amendment eliminates the problem of calculating exactly the 210th day prior to a primary election as initially presented in S.B. No. 1218.

Section 3, pertaining to section 11-72 has been deleted in its entirety as S.B. No. 9, S.D. 1 has already incorporated the changes to this section.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1218, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1218, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Campbell and Kuroda did not concur.

SCRep. 627 Judiciary on S.B. No. 1282

The purpose of this bill is to amend the Unemployment Compensation Law so that persons who make false statements or withhold information in the process of obtaining benefits for themselves or others would be guilty of falsely obtaining benefits.

The bill, if passed, will make the penalties provided under this law consistent with the penalties for theft under the Hawaii Penal Code.

The Department of Labor and Industrial Relations testified in favor of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1282 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Campbell.

SCRep. 628 Judiciary on S.B. No. 1591

The purpose of this bill is to amend chapter 343, Hawaii Revised Statutes, relating to environmental assessments and statements.

The changes being made by S.B. No. 1591 are primarily housekeeping changes introduced either for clarification or in order to bring the statutes in accord with desirable regulations of the Environmental Quality Commission and with practices that have by experience been found useful in the Environmental Impact Statement system.

The one substantive change relates to revised time limits set for bringing suits in the courts for agency failures to determine whether or not an Environmental Impact Statement is required for an applicant's project.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1591 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 629 Judiciary on S.B. No. 632

The purpose of this bill is to prohibit adult theaters, adult bookstores, and cabarets offering adult entertainment from being located within 1,000 feet of a residential zone or within the same distance of each other.

Your Committee does not, by this bill, advocate these forms of entertainment. However differently we may feel in that regard, we are constrained to respect the right of individuals to offer and seek such forms of entertainment within constitutional bounds. See Young v. American Mini Theatres, 427 U.S. 50 (1976). In this regard, we note that the definition of "sexual conduct" in subsection (b) (4) of S.B. No. 632 is identical to that found in section 712-1210(7).

We also observe that by section 712-1210 our laws do not make every presentation of sexual conduct prohibited as pornographic, but only those failing to meet the standards set out in sections 712-1210(5) and 712-1210(6). When such standards are violated such activities are prohibited by provisions of chapter 712.

Accordingly, we understand that the forms of entertainment being addressed by S.B.

No. 632 are those which are not prohibited by chapter 712, other statutes or county ordinances.

Your Committee's views as indicated above are echoed in the testimony presented by the Police Department of the City and County of Honolulu. Such testimony is also in agreement that the 1,000 feet restriction "will be in the best interest of our children".

The various counties are allowed flexibility by being authorized to waive the 1,000 feet requirement where the public interest and nearby properties are found not to be injuriously affected nor obstruction of neighborhood conservation or urban renewal effort.

Your Committee also notes the absence of any "grandfather" provision to S.B. No. 632. We agree with the confidence implicit by such absence that the respective county prosecutors will give due consideration to the issue of retroactivity in their efforts at enforcement.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 632 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Campbell.

SCRep. 630 Judiciary on S.B. No. 1323

The purpose of this bill is to amend section 327C-1, Hawaii Revised Statutes, by removing the restrictive wording which requires a neurologist or a neurosurgeon be consulted by the attending physician to determine when a person is dead in cases where artificial means of life support preclude making a determination that respiratory and circulatory functions have ceased. The bill designates the attending physician as the sole individual responsible to make the determination of death in such cases.

The rationale for this change is the recognition that neurosurgeons and/or neurologists are not always available especially in neighbor island hospitals. However, while removing this restriction your Committee wishes to note that consultation by the attending physician with a neurologist or neurosurgeon before a person is pronounced dead is a prudent safeguard. It is, therefore, the preference of your Committee that this procedure be followed in all appropriate cases whenever reasonably possible.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1323 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Campbell and Mizuguchi.

SCRep. 631 (Majority) Public Utilities on S.B. No. 1328

The purpose of this bill is to permit a limited degree of rate competition among motor vehicle common carriers. It does not deregulate the motor carrier industry. The bill is intended to make the existing competition among motor carriers more workable and to permit the carriers flexibility to adjust their rates within prescribed zones. The bill as originally drafted would permit all common carriers to file and charge deviated rates within a range from forty percent below to five percent above their tariff rates. Your Committee amended the bill to create a distinction between passenger carriers and property carriers with respect to the range in which deviated rates may be filed. With respect to passenger carriers, your Committee finds that competitive pressures are already resulting in substantial deviations from the tariff rates which take various forms. In the case of property carriers, however, apparently these deviations are likely to be of a much lesser magnitude. The downward deviation of fifteen percent in the case of property carriers has been recommended by the Public Utilities Commission. Accordingly the bill was amended to provide for a range of from five percent above to fifteen percent below in the case of property carriers and from five percent above to forty percent below in the case of passenger carriers. Unlike the case with tariff changes, when deviated rates are filed, the burden will be on the party contesting the rate (normally a competing carrier or an industry association) to establish that the rate is unlawful. In addition, the bill eases somewhat the standard which must be met before the Public Utilities Commission may award a carrier authority to enter the motor carrier trade. Under the bill carriers will still be required to establish that they are fit and able to provide the service but will not be required to prove public convenience and necessity.

Your Committee finds that the Legislative Auditor's conclusions published in 1975 remain valid today. These conclusions are that:

(1) the present regulatory scheme is counter-efficient in its effects; (2) the motor carrier trade is competitive in nature and there is little reason why the forces of competition should not be allowed to work; (3) economic regulation of motor carriers should be designed to make existing competition work rather than suppress it.

While this bill does not deregulate motor carriers, it is intended to facilitate, to a limited degree, the operation of competitive forces as the Auditor recommended. The bill permits a limited degree of rate competition while at the same time retaining a mechanism by which unreasonable or predatory rates can be challenged. Under the bill rate competition will not be wide open but will be confined to a limited range keyed to the established tariff rate. Within the range, deviated rates may be charged provided they are filed with the Commission. Even deviated rates may be challenged by a contesting party but under the bill the contesting party will be required to prove that the rate is unlawful and that suspension is necessary to prevent irreparable harm. Of course, tariffs can be changed both under existing law as well as under this bill. However, when tariffs are changed, the filing carrier must bear the burden of affirmatively proving the tariff is fair and reasonable. This is often difficult if there is opposition from another carrier or association of carriers. Such proof is invariably costly for the carrier who must hire an attorney and develop an economic case. Thus the existing system discourages those carriers who may wish to reduce rates because they are more efficient and have lower costs. Even within the range, however, a carrier who can establish that the deviated rate is predatory or otherwise unreasonable is entitled to suspension.

The bill does not amend the provisions of Section 271-12, Hawaii Revised Statutes, which empower the commission to establish financial or capital standards and criteria which must be satisfied before a motor carrier is licensed to go into business. This provision acts as a safeguard against excessive competition which, the industry contends, may result from the fact that entry into the field is relatively easy and that this encourages inefficient firms to enter the trade. The bill does, however, repeal those provisions in Section 271-12 which require applicants to prove that the proposed service is required for "public convenience and necessity". This is consistent with the policy of permitting a limited degree of rate competition. If a financially fit and able carrier seeks to enter the trade, it should be assumed that he expects to acquire enough business to earn a profit. The commission points out that it is very difficult to prove public convenience and necessity with any degree of certainty and that it often has not been in a good position to make specific findings on this issue. Your Committee finds that too often in the past the provision requiring proof of public convenience and necessity has been used by contestants to block entry. Contestants already providing service simply prove that fact and assert that, therefore, there is no need for the proposed service. It is difficult for the new entrant to prove otherwise. Thus competition is limited and ratepayers suffer under existing practice.

Your Committee has examined the arguments in opposition to even a limited form of rate competition and has found them to be without merit. In particular, your Committee does not believe that the limited degree of rate competition permitted by this bill will adversely affect the safety of the carriers involved. In the first place, safety regulation of both regulated and unregulated vehicles is carried out by the Department of Transportation, responsibility having been transferred there from the Public Utilities Commission two years ago. According to the Auditor, there are more economically unregulated vehicles on the roads of our State than there are economically regulated vehicles. Thus, the safety problem can only be met by strict safety requirements developed and enforced by the Department of Transportation and the counties.

Nor does your Committee believe that the limited competition permitted by this bill is likely to have any measurable effect whatsoever on the relative size of the carriers operating in the trade. As the Legislative Auditor pointed out, deregulation cannot in and of itself be said to be the cause of small carriers being forced out of the motor carrier trade. Under regulation there already has been a marked trend toward bigness. According to the Auditor, by 1971, the smaller or Class C property carriers had only two percent of the business and Class C passenger carriers only seven percent. Moreover, predatory pricing or other attempts to intentionally drive small carriers out of business can be dealt with by the commission under this bill. In addition, of course, the antitrust laws provide protection against predatory pricing. Thus, your Committee does not believe that this bill is likely to result in larger carriers forcing smaller carriers out of business.

Your Committee on Public Utilities 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 placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.
Senators Yamasaki and Anderson did not concur.

SCRep. 632 (Majority) Consumer Protection and Commerce on S.B. No. 1516

The purpose of this bill is to provide a means of regulating the creation, operation, marketing, and role of time sharing programs in Hawaii.

Your Committee has amended S.B. No. 1516 by substituting it in its entirety with simplified statutory language obtained from the Utah Code. We believe that where a simple solution to legislation is available, it should be preferred.

S.B. No. 1516, S.D. 1 gives legal existence to time sharing in condominium units if (1) the provisions of the laws pertaining to Horizontal Property Regime, the Uniform Commercial Code, and the Unfair Practices Act are complied with; (2) approval, in the case of existing condominiums, of 75 percent of the existing owner-occupants, is received; and (3) all condominium units situated in Hawaii are located in hotel/resort areas.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1516, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1516, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda, Saiki, Ushijima and Yee.

Senator Carroll did not concur.

SCRep. 633 Legislative Management

Informing the Senate that S.C.R. No. 45, S.R. Nos. 222 to 227 and Stand. Com. Rep. Nos. 440 to 632 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 634 Legislative Management

Informing the Senate that S.C.R. Nos. 46 to 48 and S.R. Nos. 228 to 233 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 635 Legislative Management

Informing the Senate that S.R. Nos. 234 to 239 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 636 Consumer Protection and Commerce on S.R. No. 16

The purpose of this resolution is to deregulate businesses in order to stimulate competition unless regulation is vital to the public interest. In this regard your Committee has amended this resolution to exempt water carriers and regulated utilities.

Your Committee realizes that competition is healthy and that businesses relying on marketplace forces will usually produce the lowest price for consumers.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 16, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.R. No. 16, S.D. 1, and be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Yee.

SCRep. 637 Legislative Management

Informing the Senate that S.R. Nos. 240 to 242 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 638 Legislative Management

Informing the Senate that S.C.R. No. 49 and S.R. Nos. 243 to 258 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 639 Economic Development on H.B. No. 732

The purpose of this bill is to increase the maximum capital loan limit from \$50,000 to \$100,000.

Your Committee finds that increasing the maximum loan for the Hawaii Capital Loan Program from \$50,000 to \$100,000 would be in line with the increase in the cost of doing business in Hawaii and will provide the necessary flexibility to the program in assisting small businesses.

Your Committee has made technical changes to the bill and renumbered section 2 to section 3 and added a new section 2 setting forth the effect of underscoring and bracketing in the bill.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 732, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 732, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 640 Economic Development on H.B. No. 1232

The purpose of this bill is to amend section 205-6, Hawaii Revised Statutes, pertaining to Special Use Permits by providing that only those Special Use Permit requests involving lands with an area greater than fifteen acres shall be subject to approval by the land use commission. All other Special Use Permits shall only be subject to approval by the appropriate county planning commission.

Your Committee finds that steps are needed to streamline the complex land use regulatory systems. Pursuant to this need, your Committee believes that land use decisions whose impact is limited to a particular county should be decided by that particular county. The bill would accomplish this goal by placing decisions on Special Use Permits for land areas of less than fifteen acres to the appropriate county decision-making body. According to information from the department of planning and economic development, such a change would eliminate approximately seventy-five per cent of the Special Use Permits presently being reviewed by the land use commission and would allow the land use commission to concentrate its efforts on those Special Use Permits which would have greater impact of a statewide nature. In addition, such a change would make the system more efficient by leaving the decision on Special Use Permits to the body most qualified to make such a decision, thereby avoiding costly delays and duplication of efforts.

Your Committee is in accord with the aforementioned proposal to streamline the land use regulatory system.

During a previous Committee hearing on a companion senate bill to H.B. No. 1232, the Department of Land and Utilization, City and County of Honolulu, recommended amendments to the bill. The purpose of the amendments is to bring the processing of Special Use Permits into conformity with the City Charter which designates the City and County of Honolulu's Planning Commission as an "advisory", not a decision-making body. The law currently requires the county planning commissions to make final decisions on permits. This is clearly inconsistent with the Charter of the City and County of Honolulu.

Your Committee, therefore, has amended the bill by adding provisions for land use decision-making by other county agencies in cases where the county planning commission is an advisory body only. Other changes conforming to this amendment were also made.

Your Committee has made other technical changes to the bill and renumbered section 2 to section 3 and added a new section 2 setting forth the effect of underscoring and bracketing in the bill.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1232, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1232, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 641 Economic Development on H.B. No. 1638

The purpose of this bill is to change the source of funding of certain capital improvement

projects authorized by Act 10, Special Session Laws of Hawaii 1977, as amended by Act 243, Session laws of Hawaii 1978, and Act 131, Session Laws of Hawaii 1978, to allow the governor the option to utilize either general revenue funds or general obligation bonds to fund certain projects. Currently, such projects are authorized to be funded solely by means of general obligation bond funds.

Your Committee finds that this bill is essential to the implementation of the Energy Tree Farm Program as authorized by Acts 131 and 243, Session Laws of Hawaii 1978. This is because the development of plantations of forest trees for energy or other purposes requires expenses of an operational nature such as planting tubes, wooden pallets, fertilizers, shipping boxes, soil survey expenses, and nursery labor. Accordingly, it would be more appropriate to use general revenue funds for these types of expenses than the capital improvement project funds authorized by Acts 131 and 243, Session Laws of Hawaii 1978.

Your Committee has amended the bill by deleting the requirement that the change of funds used be with the concurrence of the President of the Senate and the Speaker of the House of Representatives and by making nonsubstantive, technical amendments.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1638, H.D. 1, as amended herein and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1638, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 642 Legislative Management

Informing the Senate S.C.R. Nos. 50 and 51, S.R. No. 259 and Stand. Com. Rep. Nos. 639 to 641 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 643 Judiciary on H.B. No. 4

The purpose of this bill is to appropriate moneys out of the general revenues of the State of Hawaii in the total sum of \$245,802.36 to compensate 216 victims and the providers of services to such victims under the Criminal Injuries Compensation Act.

The funds appropriated under this bill shall be deposited into the Criminal Injuries Compensation Fund to be used for payments by the Criminal Injuries Compensation Commission.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 4 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 Chong.

SCRep. 644 (Majority) Judiciary on H.B. No. 19

The purpose of this bill is to incorporate in the Executive Budget Act the pertinent provision of Section 8 of Article VII of the State Constitution which prescribes that the proposed general fund expenditure in the plan of proposed expenditure, including the estimates of the aggregate expenditures of the judicial and legislative branches, submitted by the Governor shall not exceed the general fund expenditure ceiling established by the Legislature.

Also incorporated in the Executive Budget Act is the provision of Section 8 of Article VII which allows the Governor to exceed the expenditure ceiling by making a public disclosure by means of the executive budget document setting forth the amount and rate by which the proposed budget will exceed the expenditure ceiling, the specific reasons therefor and the possible impact if the expenditure ceiling were imposed.

Section 37-71 and Section 37-72 of the Executive Budget Act are also amended to additionally require that the biennial budget and supplementary budgets of the executive and the judicial branches, respectively, be submitted to the Legislature in bill form in conformance with the requirements of Section 8 of Article VII of the State Constitution.

Section 37-71(3) of the Executive Budget Act is amended to include a requirement for a summary financial statement reflecting the general fund expenditure ceiling and the aggregate general fund expenditures estimated for the judicial and legislative branches along with the general fund expenditures proposed for the executive branch.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 19, 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 Chong.
Senator Carroll did not concur.

SCRep. 645 (Majority) Judiciary on H.B. No. 93

The purpose of this bill is to further define the jurisdiction of the small claims court, and to increase the jurisdictional limit of that court.

Testimony was heard from Mr. Lester Cingcade, the Administrative Director of the Courts, in support of the bill. He felt the provisions allowing the court to grant monetary and equitable relief subject to certain limitations and prohibiting class actions were appropriate to the purposes of the small claims court. These provisions would ensure that the small claims court remains available as a tribunal for the trial of matters too small to merit the expense of formal proceedings.

H.B. No. 93 was amended to reduce the jurisdictional limit of the court from \$1,000 to \$600. While the old \$300 limit has been made obsolete by inflation, your Committee felt the increase to \$600 was an adequate raise at the present time.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 93, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 93, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Chong.
Senators Ushijima and Carroll did not concur.

SCRep. 646 Judiciary on H.B. No. 451

The purpose of H.B. No. 451 is to close a legal loophole that exists in our current drug statute. Presently, those who illegally manufacture and/or distribute drugs in forms other than capsules, tablets, ampules or syrettes in the amounts designated under Section 712-1241 cannot be prosecuted for class "A" felony.

Your Committee amended H.B. No. 451 to include a specific definition of "dosage unit" in section 712-1240, Hawaii Revised Statutes. This definitional section was also expanded by adding "prescribe" to the definitions of "distribute" and "practitioner." This would allow the Honolulu Police Department and Division of Narcotics and Dangerous Drug Control under the Health Department to further pursue the illegal distribution of drugs, including those "dosage units."

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 451, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 451, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Chong.

SCRep. 647 Judiciary on H.B. No. 577

The purpose of this bill is to delete a provision from the present law requiring the public defender's office to pay for filing fees, appeal bonds and other court costs for indigent criminal defendants.

Your Committee finds that the payment of these court costs by the public defender's office is a superfluous requirement as such fees can be waived by the courts pursuant to Chapter 607, Hawaii Revised Statutes upon a showing of indigency.

Moreover, the implementation of this requirement unnecessarily imposes an administrative burden upon the State. In essence, this requirement provides for the State to pay itself at considerable expense in terms of administrative time required to budget and process payment for such costs.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 577, 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 Chong.

SCRep. 648 Government Operations and Efficiency on S.R. No. 166

The purpose of this resolution is to request that the Department of Accounting and General Services develop and implement a recovery program for all recyclable waste paper products from major state buildings in Honolulu.

Testimony by Lieutenant Governor King, the Department of Accounting and General Services, the Department of Health and the Interdepartmental Committee on Litter Control supported the resolution and identified similar pilot projects that have been successful.

Your Committee on Government Operations and Efficiency is in accord with the intent and purpose of S.R. No. 166 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 649 Government Operations and Efficiency on S.R. No. 209

The purpose of this resolution is to request a cost comparison study of the options available to the State regarding office space, including exploration of factors dealing with a comparison between new construction and leasing of buildings, revenue generations, added tax burdens, use of special bonds option to buy after leasing and the effect of the options on tax revenues.

Testimony by Frank Skrivanek of the Department of Planning and Economic Development indicated that the appropriate lead agency for the proposed study should be the Department of Accounting and General Services since Section 26-6, HRS, provides that the Department of Accounting and General Services shall "undertake the programs of centralized engineering services, including operation and maintenance of public buildings, for departments of the State."

Your Committee adopted the recommendation of the Department of Planning and Economic Development by amending the fifth, sixth and last paragraphs of the resolution to reflect the appropriate agency, the Department of Accounting and General Services.

Your Committee on Government Operations and Efficiency is in accord with the intent and purpose of S.R. No. 209 as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 209, S.D. 1.

Signed by all members of the Committee.

SCRep. 650 (Joint) Consumer Protection and Commerce and Ecology, Environment and Recreation on S.R. No. 17

The purpose of this resolution is to urge our government to require replacing the catalytic converters on automobiles with other devices that are now available or will be available and which meet U.S. Standards for emissions control.

Your Committees are in agreement that a more cost efficient device should be used to replace the catalytic converter in automobiles. Fuel costs involved in processing unleaded fuel, which catalytic converters require, are more expensive than conventional fuels. Unleaded fuel is also in shorter supply than conventional fuel and thus the price of unleaded fuel will climb faster than the price of conventional fuel. It has also been shown that cars with catalytic converters need frequent repairs to assure maximum fuel efficiency and effective functioning of the emission control system.

Your Committees are also in agreement that other effective alternative technologies now exist to reduce the emission of harmful pollutants and still meet American mileage requirements in the future.

Your Committees amended the resolution to incorporate other factors which were felt to be significant enough to justify amendment.

Your Committees on Consumer Protection and Commerce and Ecology, Environment and Recreation concur with the intent and purpose of S.R. No. 17, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 17, S.D. 1.

Signed by all members of the Committees.

SCRep. 651 (Joint) Consumer Protection and Commerce and Ecology, Environment and Recreation on S.C.R. No. 2

The purpose of this concurrent resolution is to urge our government to require replacing the catalytic converters on automobiles with other devices that are now available or will

be available and which meet U.S. Standards for emissions control.

Your Committees are in agreement that a more cost efficient device should be used to replace the catalytic converter in automobiles. Fuel costs involved in processing unleaded fuel, which catalytic converters require, are more expensive than conventional fuels. Unleaded fuel is also in shorter supply than conventional fuel and thus the price of unleaded fuel will climb faster than the price of conventional fuel. It has also been shown that cars with catalytic converters need frequent repairs to assure maximum fuel efficiency and effective functioning of the emission control system.

Your Committees are also in agreement that other effective alternative technologies now exist to reduce the emission of harmful pollutants and still meet American mileage requirements in the future.

Your Committees amended the concurrent resolution to incorporate other factors which were felt to be significant enough to justify amendment.

Your Committees on Consumer Protection and Commerce and Ecology, Environment and Recreation concur with the intent and purpose of S.C.R. No. 2, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 2, S.D. 1.

Signed by all members of the Committees.

SCRep. 652 Human Resources on H.B. No. 1636

The purpose of this bill is to amend the Discriminatory Practices portion of the Employment Practices law by clarifying and supplementing various sections in order to provide the general public with a statute and procedures that are easy to comprehend and more compatible with the federal Civil Rights Act and the Equal Employment Opportunities Commission's national charge processing system.

Your Committee finds that some of the revisions include exemption for domestic service in the home of any person; authority for the department to initiate complaints and file class action complaints; delineation of investigational and enforcement authority; setting of a three year statute of limitation on civil action; and a provision for the confidentiality of information.

Your Committee notes that the State is required to align its discriminatory practices statutes with the federal Civil Rights Act, and the EEOC national charge processing system in order to continue to receive certain federal funds which support the activities of the State's employment practices office.

Your Committee has amended this bill to delete the phrase, "but shall include the State or any political subdivision thereof", from the definition of "Employer".

Your Committee recognizes the importance of non-discriminatory employment practices in both sectors (public and private) of employment. However, classifying the State as an "employer" as provided in this bill will place the State in the tenuous position of having to formulate and monitor discriminatory practices laws which it (the State) may have to enforce against itself in the future. Your Committee believes that the present recourse to federal laws in cases of discriminatory employment practices in public employment is adequate pending additional evaluation of the legalities, mechanisms and increased workload involved in including the State as an "employer" under this chapter.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1636, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1636, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Abercrombie, Anderson and Soares.

SCRep. 653 Legislative Management

Informing the Senate that S.C.R. Nos. 52 to 54, S.R. Nos. 260 to 274 and Stand. Com. Rep. Nos. 643 to 652 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 654 Tourism on H.B. No. 1505

The purpose of this bill is to provide that gratuities collected by an employer on behalf of employees and disbursed to them are not subject to the general excise tax of 4 per cent.

This bill proposes to amend Section 237-24, Hawaii Revised Statutes, construed by the Department of Taxation in late 1977 as being inapplicable to the foregoing amounts. Prior to 1977, such negotiated gratuities and service charges had been excluded from the general excise tax.

Your Committee finds that when there is direct tipping for services there is no general excise tax liability. The moneys are part of the income of the employee and in no way accrue as income to the business operation. This bill would treat price-inclusive service charges and negotiated gratuities in the same exempt manner where the employer merely acts as a conduit between the customer and the employee.

Furthermore, your Committee finds that when the employer acts as a conduit, records of gratuities collected and disbursed are maintained and reported to the government. This enables the Department of Taxation to more effectively ascertain the accuracy of certain individual income tax returns.

Inasmuch as tips and gratuities are not income to the businessman but to the employee, your Committee believes that this exemption is reasonable.

Your Committee on Tourism is in accord with the intent and purpose of H.B. No. 1505, 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. 655 (Joint) Human Resources and Health on S.R. No. 45

The purpose of this resolution is to request the Department of Health and Department of Social Services and Housing to submit a report to the 1980 Legislature on the necessity of increasing various emergency treatment services, the feasibility of coordinating these services and on any coordination attempts in progress.

Your Committees find that there are various crisis intervention facilities currently operating in this State for a number of persons requiring such services (spouse abuse, child abuse, sex abuse, alcohol and drug abuse and mental health). Your Committees find that because these facilities provide necessary emergency services, there is a possibility that such services need to be expanded in specific geographic areas or by types of services. Furthermore, these services and facilities should be coordinated to assist in case management.

This resolution recognizes the need for crisis intervention facilities, services and coordination.

Your Committees have amended this resolution by:

(1) requesting the Department of Health to prepare this report without the participation of the Department of Social Services and Housing because these services are provided by this Department, and

(2) requesting that the report be submitted 20 days prior to the convening of the 1980 Legislature.

Your Committees on Human Resources and Health concur with the intent and purpose of S.R. No. 45, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 45, S.D. 1.

Signed by all members of the Committees except Senators Anderson and Chong.

SCRep. 656 Human Resources on H.C.R. No. 30

The purpose of this concurrent resolution is to request Hawaii's Congressional Delegation to introduce and work for the adoption of legislation to provide funds to the State of Hawaii for the development, implementation, and operation of programs to meet the higher cost of public assistance for, and the special social, economic needs of immigrants in Hawaii.

Your Committee finds that the Immigration and Nationality Act Amendments of 1965 have enabled a large number of immigrants to make Hawaii their permanent residence. While

federal laws regulate the number of immigrants entering the United States, the cost of providing services to these immigrants is borne disproportionately by local governments. According to the Department of Social Services and Housing, the impact of Hawaii's immigrants is felt most directly by the Department's public assistance program. As of October 1978, active recipients from foreign countries constituted 8.3 per cent of the financial assistance caseload (Assistance to Families with Dependent Children, General Assistance, Assistance to the Blind and Disabled). This represented 2,228 cases (5,254 individuals) which involved an annual cost of \$6.8 million.

Your Committee on Human Resources concurs with the intent and purpose of H.C.R. No. 30 and recommends its adoption.

Signed by all members of the Committee except Senator Anderson.

SCRep. 657 Human Resources on S.R. No. 134

The purpose of this resolution is to request Congress to raise the level of lump-sum death benefits paid under the federal Social Security Act from \$255 to \$1000.

Your Committee finds that the inflationary trend of the economy has brought a significant increase in the cost of mortuary and cemetery services. On Oahu, such costs now exceed \$1000, even when charges for cemetery plots are not included.

Your Committee finds further that the lump-sum death benefits provided by the Social Security Act, as established in 1954, allow an amount of not more than \$255, a figure which is well below the cost of providing for adequate funeral services at this time.

Your Committee on Human Resources is in accord with the intent and purpose of S.R. No. 134, and recommends its adoption.

Signed by all members of the Committee except Senator Anderson.

SCRep. 658 Human Resources on S.R. No. 135

The purpose of this resolution is to request the United States Congress to enact legislation to provide increased financial assistance to states disproportionately affected by immigration.

Your Committee finds that Hawaii, which is among the states most affected by the flow of immigrants to this country in recent years, has spent a significant portion of its resources on assisting immigrants residing here. People arriving as new residents from foreign countries frequently have problems in securing adequate employment, in communicating with the indigenous population, and in generally setting roots in our community. As a consequence, immigrants coming to Hawaii often require a greater portion of state assistance than their raw numbers might indicate.

Your Committee further finds that the assistance provided is paid for by the State, but that the level of immigration is due to decisions made on a federal level, and that the federal government has not adequately responded in helping states, such as Hawaii, who bear the brunt of the federal decisions on immigration by providing funds to be used in meeting the needs of recent immigrants.

Your Committee on Human Resources is in accord with the intent and purpose of S.R. No. 135 and recommends its adoption.

Signed by all members of the Committee except Senator Anderson.

SCRep. 659 (Joint/Majority) Human Resources and Judiciary on H.B. No. 588

The purpose of this bill is to allow the attorney general, in addition to the public prosecutor or county attorney, to prosecute all criminal actions in violation of the Hawaii Employment Security Law, its rules and regulations.

Your Committees find that several sections of the Hawaii Employment Security Law provide for penalties such as fines and imprisonments for criminal actions in violation of the law and its regulations by claimants, employers, or employees or members of the department of labor and industrial relations.

At present, such penalties are imposed through prosecution by the public prosecutor or county attorney of the political subdivision in which the employer has a place of business or the violator resides. Prosecution under this system has generally been successful, but it has also received low priority for prosecution, which in turn has limited the scope

and timeliness of such actions. Allowing a deputy attorney general to be responsible for handling employment security law prosecutions would aid in ensuring that violations would receive proper attention.

Your Committees have made technical, nonsubstantative amendments to this bill to bring it in conformance with the requirements of Act 80, Session Laws of Hawaii 1978, dealing with the form of legislation amending the Hawaii Revised Statutes.

Your Committees on Human Resources and Judiciary are in accord with the intent and purpose of H.B. No. 588, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 588, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Anderson, Chong, George and Saiki.
Senator Abercrombie did not concur.

SCRep. 660 Human Resources on H.B. No. 340

The purpose of this bill is to protect the rights and interests of elderly persons living in multi-unit residential facilities usually financed under a lease arrangement where the lessee pays for a life tenancy in a living unit and thereafter pays only to cover the costs of special services, operations and maintenance.

Your Committee finds that there is a need for a method by which elderly persons living in multi-unit residential facilities can be kept abreast of and have input into the operation and management of their respective facilities. There have been problems from time to time with the management of such facilities, including two bankruptcies, and it is the intent of this Committee that some measure of protection be afforded to those living in them through the creation of an advisory body in each facility to be composed in part of its residents. To insure adequate representation, a minimum of two members or twenty-five percent of the body, whichever is greater, shall be lessees of the facility. The advisory body shall submit recommendations concerning the operation and management of the facility to the facility's governing board for its consideration.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 340, 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 Anderson.

SCRep. 661 Human Resources on H.B. No. 357

The purpose of this bill is to amend Section 76-23, Hawaii Revised Statutes, to permit a regular civil service employee to be promoted non-competitively to a vacant position in a class related to the employee's current class, although both classes may be in non-related series.

Present law permits non-competitive position movements from one class to another class in the same or related series.

For example, the class, Clerk III, SR-8, is found in the Clerk series and the class, Clerk-Typist III, SR-10, is in the Clerk-Typist series, which are related series. Therefore, under current law, an employee who is a Clerk III, SR-8, may be non-competitively promoted to Clerk-Typist III, SR-10, because the Clerk series is related to the Clerk-Typist series. Under this bill, Clerk III, SR-8, may be non-competitively promoted to Unemployment Insurance Assistant III, SR-9, because the classes are related although in non-related series.

Your Committee finds that greater career development opportunities would arise from increased opportunities for regular employees to be non-competitively promoted under this bill. Such opportunities for upward mobility would serve as incentives to employees and would create a job environment conducive to the attraction, development and retention of a capable and competent workforce.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 357, 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. 662 Human Resources on H.B. No. 544

The purpose of this bill is to add asbestos and other substances with carcinogenic properties to the list of substances and forms of radiation which are exempt from the time limitation on claims for compensation under the workers' compensation law, Section 386, HRS.

Your Committee believes that it is proper to exempt certain substances, such as asbestos, from the two-year time limit on claims for compensation because the injuries caused by exposure to such substances are often not apparent for several years. There is concern though about the phrase, "or other mineral or substance with carcinogenic properties", in that its meaning could be construed in a way that would take it beyond the intent of the exemption provision. The purpose of the provision is to exempt those substances which are known to be injurious to health, and are known to be associated with occupational environments. The purpose is not to exempt those substances which are not yet known to be injurious to health, or are not associated strictly with occupational environments. Your Committee therefore has deleted the proposed amendment regarding "other substances..." and retained the exemption for asbestos which is a specific substance with known carcinogenic properties, and is known to be associated with occupational environments.

Your Committee has further made technical amendments to this bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 544, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 544, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Anderson.

SCRep. 663 Human Resources on H.B. No. 1607

The purpose of this bill is to amend Chapter 87 (Public Employees Health Fund), by adding a new section to authorize the transmittal of children's dental plan contributions to the dental plans of employee organizations.

Your Committee finds that this proposed transmittal or sending of funds to employee organizations is identical to current operations of the life insurance plan authorized by Section 87-23. In the life insurance plan, an employee may choose to send his monthly subsidy to: (1) his employee organization plan, or (2) leave it with the Health Fund's Life Insurance Plan. The employee may also elect not to enroll to receive this subsidy.

Your Committee also finds that this bill provides that an employee may likewise send the monthly subsidy for his children's dental plan to: (1) his employee organization's dental plan; or (2) leave it with the Health Fund's Children's Dental Plan. The employee may also elect not to enroll his children for this benefit plan.

Your Committee further finds that a number of employee organizations are presently considering establishing their own dental programs or have already implemented them. This bill would enable the children of public employees (who are enrolled in their employee organization's dental program) to go to the same dentist for dental care with their parents. In addition, your Committee finds that no significant impact in terms of cost or program operations is expected. Further, the amount of dental contributions is limited by statute, and the explanation and addition of a new plan code number can be readily handled by the Health Fund program staff.

Your Committee has made technical amendments to this bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1607, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1607, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Anderson.

SCRep. 664 (Majority) Judiciary on S.C.R. No. 6

The purpose of this resolution is to ratify a proposed amendment to the Constitution of the United States to provide for representation of the District of Columbia in the Congress. The people of Hawaii remember the lengthy struggle and heartfelt longing for adequate representation in the halls of Congress.

Only with the support of other states did Hawaii achieve the full benefits of first-class

citizenship demanded by the basic democratic principle of "one-person-one-vote."

Your Committee believes that simple justice also calls for equal representation for the people of the District of Columbia.

Your Committee finds that while the citizens of the District of Columbia have all the obligations of citizenship, including federal taxation, they are without a vote in the deliberations over national policies. This situation exists even though the residents of the District of Columbia pay a higher tax per capita than every other state but Alaska.

Your Committee is aware that House Joint Resolution No. 445 proposing an amendment to the United States Constitution to provide for representation of the District of Columbia in the Congress needs to be ratified by the legislatures of three-fourths of the states.

As Hawaii is the last state to achieve such privileges, your Committee feels that it must support the District of Columbia in its bid for full representation, and strongly recommends the ratification of this amendment to the Constitution of the United States.

Your Committee on Judiciary is in accord with the intent and purpose of S.C.R. No. 6 and recommends its adoption.

Signed by all members of the Committee.
Senators Cobb and Carroll did not concur.

SCRep. 665 Judiciary on H.B. No. 402

The purpose of this bill is to clarify the penalty provisions of sections 134-8 and 134-9, Hawaii Revised Statutes, by specifying that the penalty provisions contained in those sections take precedence over contrary law.

Present interpretation of the Hawaii Penal Code has brought into question the penalty provision of sections 134-8 and 134-9, Hawaii Revised Statutes. As originally enacted, these laws were intended to require a minimum two-year and a maximum five-year sentence of imprisonment without probation. However, in light of conflicting provisions in the Penal Code, judges have been construing violations of these sections as class C felonies and have been sentencing convicted defendants to imprisonment for up to five years with no minimum term of imprisonment as the Code provides.

Your Committee finds that to clarify this confusion, it is essential that the original intent of sections 134-8 and 134-9 be re-emphasized by explicitly stating that the two-year minimum and five-year maximum sentence without probation for persons convicted of possessing prohibited weapons shall supersede any contrary provision or provisions of the law.

Finally, your Committee notes that the bill makes two minor form amendments to section 134-8 by adding the words "sixteen" and "eighteen" after the corresponding numerical figures to conform the provision to traditional statutory drafting practice.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 402 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 666 Judiciary on H.B. No. 404

The purpose of this bill is to exempt minors from the prompt complaint requirement. This would extend greater protection to minors and other incompetents who are victims of sexual offenses.

At the present time, section 707-740, Hawaii Revised Statutes, precludes prosecution of sexual offenses where the alleged victim is less than sixteen years old or otherwise incompetent, unless a complaint is made within a month after a parent, guardian, or other competent person specially interested in the victim learns of the offense.

While the prompt complaint requirement may serve a useful purpose for an adult, such a requirement when applied to minors or other incompetents often causes grave injustices and allows serious sexual offenses to be immune from prosecution.

H.B. No. 404 rectifies this situation by exempting all minors from the one month complaint requirement.

Testimony was heard from the Women's Legislative Coalition, the State Commission on the Status of Women and the Maui Prosecutor's Office in support of the bill.

Your Committee received further testimony that rape is a heinous act of violence which results in a severely traumatized victim. The decision of when that victim, especially a minor, is prepared to report the attack is a deeply personal one which cannot be forced by an arbitrary time limit. Moreover, young rape victims often are ignorant of the law or lack sufficient knowledge about whom to turn to for help.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 404 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 667 Judiciary on H.B. No. 585

The purpose of this bill is to allow the court more flexibility in appointing mental health professionals as members of sanity commission.

Currently, the three members of a sanity commission appointed by the court must consist of at least two qualified psychiatrists and a third professional who may be a psychiatrist or a certified clinical psychologist.

This particular requirement has been creating difficulty on the neighbor islands where there is a shortage of various types of mental health professionals. Because two of the members must be psychiatrists, this has resulted in several instances where the defendant had to be sent to the State Hospital at Kaneohe or to the Oahu jail facility where the appropriate number and type of professional people could be found. This results in delay and unnecessary expense. On occasion the courts and corrections branch staff have also sent a psychiatrist to a neighbor island to perform this function which again results in a delay and additional unnecessary expense. If the composition of the sanity commission is changed as proposed, there should be no difficulty in finding the appropriate number and types of professional people to fulfill the requirements of the commission on the neighbor islands. The proposal would require that one of the three members be a qualified psychiatrist, one of the members be a certified clinical psychologist, and the third could either be a qualified psychiatrist or a certified clinical psychologist. This change would result in a more efficient and less expensive service to the court.

Clinical psychologists have been serving on sanity commissions for the past three years with the same quality of service delivered as in previous years when all three members had to be qualified physicians. There would be no change in the quality or type of service to the court under this proposed change.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 585, 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. 668 Housing and Hawaiian Homes on H.B. No. 1341

The purpose of this bill is to amend Section 516-1(5), Hawaii Revised Statutes to amend the definition of "lease".

The amendment reduces the term of a lease from thirty-five to thirty years from the initial date of conveyance. This reduction in the length of the term of the lease will permit a greater number of lessees to enjoy the rights and privileges of Chapter 516, especially the right to petition for condemnation and acquisition of the fee title.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 1341 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 669 Housing and Hawaiian Homes on H.B. No. 1687

The purpose of this bill is to amend section 247-2, Hawaii Revised Statutes, to apply the basis and rate of tax only to a lease or sublease whose full unexpired term is of five years or more. Under present law, the provisions apply to leases or subleases with unexpired

terms of ten years or more.

In a public hearing on the Senate companion bill to H.B. No. 1687, your Committee received testimony from Mr. George Freitas, Director, State Department of Taxation, which indicated the need for the amendment to better furnish essential market data for the assessment of real properties.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 1687 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. 670 Legislative Management

Informing the Senate that S.C.R. Nos. 55 to 60, S.R. Nos. 275 to 288 and Stand. Com. Rep. Nos. 654 to 669 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 671 (Joint) Ecology, Environment and Recreation and Transportation on S.R. No. 168

The purpose of this resolution is to assure that the Department of Land and Natural Resources (DLNR) and the Department of Transportation (DOT) cooperate and coordinate in the development and enforcement of any special DOT rules governing boating that may be necessary to promote and attain the safety of persons, the protection of property, and the prevention of injury, damage or destruction to any marine life or marine life conservation district.

Testimony from the Department of Land and Natural Resources indicated that these objectives are to a great extent being accomplished. To effectively conserve and protect the marine resources within the Marine Life Conservation Districts, the DLNR has been cooperating with the DOT in establishing regulations to control boating within the Districts. It should be noted that wording to include any boating rules and regulations adopted by the DOT are already contained in four of the six Marine Life Conservation District regulations.

Your Committees on Ecology, Environment and Recreation and Transportation concur with the intent and purpose of S.R. No. 168 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 672 Human Resources on H.B. No. 45

The purpose of this bill is to broaden the scope of the activities performed by the corps of civilian workers.

Your Committee finds that the corps of civilian workers is a special program of conservation utilized whenever the level of unemployment in an island of the State reaches six percent of the total labor force of the island and remains at that level or higher for a period of three consecutive months.

Your Committee feels that the range of permissible work activity during periods of high unemployment should be increased by broadening the scope of activity of the corps of civilian workers to include conservation, recreational site work, and highway cleanup as provided in this bill.

Your Committee further finds that monies have not been budgeted for this program for the upcoming biennium and that an appropriation by the Legislature is necessary to allow the Department of Land and Natural Resources to implement this program. In light of the current unemployment rate of 7 percent for Hawaii, and the need to upgrade the areas that would be affected by this program, your Committee believes that such an appropriation is warranted and has amended this bill to include an appropriation of \$650,000 for the purposes of the corps of civilian workers program.

Your Committee has made a further amendment to exclude participants of the program from Chapter 89, the collective bargaining law, due to its inconsistency with the purposes of the program.

Your Committee on Human Resources is in accord with the intent and purpose of H.B.

No. 45, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 45, 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. 673 Human Resources on H.B. No. 286

The purpose of this bill is to correct errors in a section of Act 107/78 (Adult Family Boarding Homes and Care Homes; Licensing and Regulation).

Your Committee finds that section 321-15.6 erroneously requires the Department of Health to coordinate with itself in training adult family boarding home operators. The actual intent of this section is to have the Department of Health coordinate with the Department of Social Services and Housing in these efforts. This bill makes this correction.

Your Committee further finds that "care home" is the appropriate term instead of "adult family boarding home" in section 321-15.6 because care homes are a function of the Department of Health, the principal agency treated in this section. Adult family boarding homes belong under Chapter 346 (Department of Social Services and Housing). This bill makes the proper change.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 286, 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. 674 Human Resources on H.B. No. 349

The purpose of this bill is to permit off-duty County employees to participate in political activities permissible under Section 76-91 (pertaining to political activities of employees within the civil service).

Your Committee finds that civil service employees are currently governed by Section 76-91, Political activities, with respect to their general participation in political activities. However, your Committee further finds that there are variations in the actual regulation of political activities of employees and officers of the several county police departments.

Currently, the County Charters of Kauai, Maui, and Hawaii Counties are silent on the matter of police department employees participating in political activities. The Kauai Police Departments Rules and Regulations prohibit employees from using their positions to influence or coerce individuals to participate in political activities. Maui Police Department and Hawaii Police Department have similar prohibitions within their respective Police General Orders. Police department employees of these three Counties are considered to be "off-duty" at the end of their daily shifts, and are then permitted to participate in political activities. However, these employees are forbidden to participate in any political activities while in uniform or display bumper stickers for political candidates on any subsidized vehicles.

Your Committee further finds that the Honolulu Police Department's Rules and Regulations explicitly prohibit its officers as well as its other employees from participating in all political activities, aside from the right to vote in elections, at all times. Your Committee feels that the right to participate in such activities serves to acquaint these employees with the political process and with issues of public concern. Employees will become better aware of government operations and will become more responsible citizens of their community. Your Committee feels that the Honolulu Police Department's restriction on the right of all its employees to participate in political activities is too stringent and should follow more closely the intent of the rules and regulations of the other county police departments.

Your Committee further finds that such a restriction on Honolulu Police Department employees places them in the category of "second-class citizens". Your Committee feels that the four county police departments' Rules and Regulations adequately provide other guidelines to insure that their employees will maintain the proper conduct at all times. Allowing these employees to participate in political activities under this bill's provisions will not serve as a detriment to their capacity to fulfill their occupational responsibilities, but rather will enhance their personal and professional lives as full-fledged, contributing citizens of our community.

Your Committee has made technical amendments to this bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 349, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 349, H.D. 1, S.D. 1, and be referred to the Committee on the Judiciary.

Signed by all members of the Committee except Senator Anderson.

SCRep. 675 Human Resources on H.B. No. 515

The purpose of this bill is to amend the list of employees to be excluded from the various collective bargaining units by changing the definition of a part-time employee who works less than 1/2 time from "less than twenty hours per week" to "less than one half of a full-time equivalent of forty hours a week".

Your Committee finds that it was the intent of the legislature in determining who was to be included in the various collective bargaining units that employees working less than half time were to be excluded. The language currently reflects this by stating that those employees who work "less than twenty hours a week," out of forty, were to be excluded.

At this time, the employees in collective bargaining unit 5, teachers of the DOE, have a work week of 35 hours, and consequently, those persons working half-time only work 17 1/2 hours per week, thus excluding them from the bargaining unit under current law. It is the intent of this Committee that such employees who work on a half-time basis be included in the appropriate bargaining unit.

Your Committee further finds that the language proposed by this bill to reflect the intent of the Committee requires clarification, and has amended this bill accordingly. Nonsubstantive, technical amendments have been made to bring this bill into conformance with Act 80, SLH 1978.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 515, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 515, 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. 676 Human Resources on H.B. No. 606

The purpose of this bill is: (1) to enable the Department of Social Services and Housing to correctly determine that persons are disabled and thereby eligible for General Assistance provided that such persons meet all other requirements of the program and (2) to include employed persons without sufficient income and resources as individuals who may also qualify for General Assistance provided that such persons meet all the requirements of the GA program.

Your Committee finds that under current statutes, disabled persons unable to work as defined in this Section may receive assistance upon determination and certification by a licensed physician. However, the Department of Social Services and Housing has been experiencing difficulties with this provision due to inconsistencies in medical reports by different doctors. In some instances, incomplete or vague medical reports have made it difficult for the Department to determine eligibility. Moreover, outdated medical information about a patient's prior disability is often provided, or similar information for different patients is submitted by the same physician.

Your Committee further finds that the Department of Social Services and Housing recently arranged for applicants without a personal physician to be examined at Queen's Medical Center. This procedure has resulted in a better working relationship between the Department and the examining facility; furthermore, the facility has been able to complete the medical forms with the correct and specific information required by the Department.

This bill insures that the Department of Social Services and Housing shall provide General Assistance only to those persons who are truly disabled by giving the Department the discretion to require disability determination and certification by a licensed physician in GA eligibility cases.

Your Committee further finds that presently, employed persons may be eligible for General Assistance provided that these persons meet all requirements of the GA program. Current law, however, is not sufficiently specific on this point. This bill clarifies that the employed as well as the unemployed may receive assistance under the eligibility provisions of our General Assistance Law.

Your Committee has made technical amendments to this bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 606, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 606, 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. 677 Human Resources on H.B. No. 608

The purpose of this bill is to facilitate the effective investigation of welfare fraud and other crimes relating to public assistance.

Your Committee finds that Section 346-4.5 ("Investigators; authority and access to records.") currently authorizes the Department of Social Services and Housing to have access to governmental records in locating absent parents, establishing paternity, and obtaining and enforcing child support obligations. However, the law is unclear as to the Department's rights of access to governmental records when investigating non-child-support-related public assistance crimes.

Your Committee further finds that access to governmental records such as tax records indicating unreported employment or other sources of earnings, unemployment compensation, and police records indicating identity are critical in successfully eliminating public assistance crimes. A significant portion of tax dollars is being utilized for public assistance. Privacy acts and the desire to keep records confidential should not be used as tools for those who intentionally abuse public assistance for their personal gains.

This bill gives investigators of the Department of Social Services and Housing the necessary statutory authority to utilize all possible means for investigating the widespread abuses of the public assistance system, including those crimes not related to child support.

Your Committee has made a technical amendment without changing the substance of this bill.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 608, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 608, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Anderson.

SCRep. 678 Human Resources on H.B. No. 610

The purpose of this bill is to amend section 363-1, Hawaii Revised Statutes, to redefine a "veteran" to include any person who has served in the armed services of the United States and was discharged under honorable conditions. The bill also clarifies the provisions under which the State will bear the cost not borne by the federal government for homes designed for wheelchair living for veterans who were bona fide residents of the State prior to entering active service and were disabled during a war or campaign in which the United States was engaged.

Your Committee heard testimony from Mr. Andrew Chang, Director, Department of Social Services and Housing, assuring that veterans who are qualified for a federal grant could still qualify for the benefits under this section.

Your Committee has made a technical amendment to this bill without changing the substance.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 610, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 610, 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. 679 Human Resources on H.B. No. 1494

The purpose of this bill is to amend Section 78-1, Citizenship and residence of government officials and employees; exceptions, to allow nationals and permanent resident aliens to be appointive officers (other than department head, first assistant, first deputy, second assistant or second deputy to a department head) in the executive branch of the State or county governments, subject to the current residency requirements of this same section.

Your Committee finds that Section 78-1 presently allows nationals or permanent resident aliens to be public employees. However, the statute is not explicit in its application to elective or appointive office. Your Committee feels that exclusions of nationals and permanent resident aliens from appointive public office is inequitable since these persons pay State income, excise, and property taxes and are subject to and must obey State laws just as if they were citizens of the United States. Nationals and permanent resident aliens residing in Hawaii are subject to laws producing revenues for government operations and to laws and rules enacted by this government. These same people, however, are denied the opportunity to serve as appointive public officers.

Your Committee further finds that the Attorney General's Office indicates that the State may constitutionally impose a citizenship requirement on certain public officers because of the special demands of their particular positions. This bill exempts appointive officers in the executive branch of State and county governments, other than those who are directly involved in major decision-making processes or the execution of policy substantially affecting all members of the community, from existing citizenship requirements.

Your Committee has amended this bill so that the exemption provisions shall also apply to appointive officers in the other branches of State and county government by deleting the phrase "in the executive branch of government" on page 1, lines 9 and 10. Your Committee feels that confining this exemption to the executive branch is unnecessarily restrictive.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1494, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1494, H.D. 1, S.D. 1, and be referred to the Committee on the Judiciary.

Signed by all members of the Committee except Senator Anderson.

SCRep. 680 Human Resources on H.B. No. 1627

The purpose of this bill is to conform the salary of the Director of the Office on Aging to those of second deputies or second assistants to department heads; to amend Section 349-4 to state more clearly the role and duty of the Policy Advisory Board for elderly affairs and to permit the Board to determine whether or not to allow its ex-officio members voting privileges at board meetings; to increase the number of ex-officio Board members from twenty-seven to twenty-nine; to amend Section 349-9 to allow each county to establish a county office on aging and a county council on aging pursuant to the Older Americans Act of 1965, as amended.

Your Committee finds that the salaried heads of other agencies and commissions in the Governor's office already receive compensation equal to that received by second deputy directors. The salary of the Director of the Office on Aging should conform to this level of compensation. In addition, the Policy Advisory Board for elderly affairs could function more effectively with the aid of clearly defined duties, as enumerated in section 2 of this bill.

Your Committee further finds that a statewide program for the elderly could better function and provide a greater number of services if each county is granted authorization to establish a county office on aging and a county council on aging, as provided in this bill, whereby each county would be responsible for implementation of provisions in the Older Americans Act of 1965, as amended.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1627 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. 681 Judiciary on H.B. No. 14

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article VII, section 3 to which conformance is addressed by this bill reads as follows:

"There shall be a tax review commission, which shall be appointed as provided by law on or before July 1, 1980, and every five years thereafter. The commission shall submit to the legislature an evaluation of the State's tax structure, recommend revenue and tax policy and then dissolve."

Your Committee is in accord with the purpose of the bill, which is to set up a tax review

commission. The duties of the commission will be to conduct a systematic review of the State's tax structure, and submit evaluations and recommendations to the legislature.

Testimony was heard from Mr. George Freitas, Director of Taxation, who felt such a commission should be carefully reviewed before put into effect. Your Committee, however, determined that there was a present need for this body, as provided by the Constitution. Mr. Freitas also suggested that the commission consist of six members, and that a year term was necessary for the commission to conduct an adequate review. Your Committee agreed with this, and also wanted it clear that the commission was to dissolve after a year's term, and that it could dissolve prior to a year if its work was completed. The members of the commission were not to be compensated for their work, except for reimbursement of actual expenses.

The sum of \$40,000 is appropriated for the operation of the tax review commission, including the hiring of staff.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 14, 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 Carroll.

SCRep. 682 Judiciary on H.B. No. 18

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article VII, Section 7 to which conformance is addressed by this bill reads as follows:

"There shall be established by law a council on revenues which shall prepare revenue estimates of the state government and shall report the estimates to the governor and the legislature at times provided by law. The estimates shall be considered by the governor in preparing the budget, recommending appropriations and revenues and controlling expenditures. The estimates shall be considered by the legislature in appropriating funds and enacting revenue measures. All revenue estimates submitted by the council to the governor and the legislature shall be made public. If the legislature in appropriating funds or if the governor in preparing the budget or recommending appropriations exceeds estimated revenues due to proposed expenditures, this fact shall be made public including the reasons therefor."

H.B. No. 18, H.D. 1 was amended to add a new proposal for the composition of the council on revenues. The monthly updates of the revenue estimates was also made optional on the part of the council, or if requested by the governor or legislature. This was done because it was felt that economic conditions may not change sufficiently between quarters to warrant revising and updating the estimates monthly.

H.B. No. 18, H.D. 1, S.D. 1 also provides that the base estimate of the council against which the estimates of the governor and legislature would be compared shall be the latest council estimate. This was done because of an expressed concern that it was unclear which of the numerous estimates made annually by the council should be used by the governor and legislature as the comparison estimate.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 18, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 18, 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 Carroll.

SCRep. 683 Judiciary on H.B. No. 22

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes in the Constitution of the State of Hawaii as amended by the Constitutional Convention of 1978. House Bill No. 22, H.D. 1, would conform the county bonding statutes to amendments to Article VII, sections 12 and 13, by revising provisions of chapters 47, 47C and 49 of the Hawaii Revised Statutes.

Your Committee amended H.B. No. 22, H.D. 1, to reflect changes suggested by the Board of Water Supply. The effect of changes made by H.B. No. 22, H.D. 1, would be to eliminate the present requirement that before reimbursable, general obligation bonds are issued for the Board of Water Supply, the Board, by resolution, has to request such

issuance. It also eliminates the present requirement that the Board consent before its revenues are pledged to secure payment of principal and interest on such bonds. This amendment of section 47-2.1, Hawaii Revised Statutes, would in effect give another entity the sole discretion for issuing reimbursable general obligation bonds for the Board. It is conceivable that such bonds could be issued even if the Board had no desire or need for their issuance. Furthermore, the Board could be deprived of available funds necessary for conducting its operations by virtue of having another entity with the sole authority to pledge its revenues to secure payment of the bonds without the Board's consent.

Your Committee felt such authority was necessary for the Board of Water Supply, and therefore amended H.B. No. 22, H.D. 1.

Section 5 of H.B. No. 22, H.D. 1, amends section 49-1, Hawaii Revised Statutes, by eliminating from the definition of the term "municipality" the Board of Water Supply of the City and County of Honolulu. It also changes the term "government body" to "governing body" and eliminates boards having charge of their finances from the definition of a "governing body". This amendment deprives the Board of Water Supply of its long time authority to issue revenue bonds and denies the Board access to a time honored and important source for financing construction of capital facilities. It could conceivably place in another entity the authority to determine whether such revenue bonds should be issued and the authority for issuance. It could further place the Board in the untenable position of having another entity "in charge" of the Board's finances. As such, your Committee amended H.B. No. 22, H.D. 1, to allow the Board their existing authority.

Your Committee felt these amendments were necessary, as H.B. No. 22, H.D. 1, would place the Board of Water Supply in the unreasonable position where they would continue to be solely responsible for managing, operating, and maintaining the water systems but deprived of the authority to fully determine and control the financial means necessary to meet its obligations.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 22, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 22, 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 Carroll.

SCRep. 684 Judiciary on H.B. No. 95

The purpose of this bill is to implement Article I, section 11, of the Constitution of the State of Hawaii, as amended by the Hawaii Constitutional Convention of 1978 and pertaining to grand jury counsel. The specific language of the Constitution to which such conformance is addressed reads:

"Whenever a grand jury is impaneled, there shall be an independent counsel appointed as provided by law to advise the members of the grand jury regarding matters brought before it. Independent counsel shall be selected from among those persons licensed to practice law by the supreme court of the State and shall not be a public employee. The term and compensation for independent counsel shall be as provided by law."

H.B. No. 95, H.D. 2, was amended to place the grand jury counsel in a new chapter, and create new sections for the appointment procedure, qualifications, duties, compensation, and disqualification for conflict of interest.

More particularly, H.B. No. 95 in the form of S.D. 1 differs from the previous version in the following respects:

A. Appointment of the grand jury counsel is placed with the chief justice rather than the supreme court. It was thought that the procedure should allow quick appointment of the grand jury counsel to meet emergency situations, rather than require specially convening the supreme court should it be at recess.

B. The appointment of the grand jury counsel will also constitute the hire of an attorney under S.D. 1. In the prior version, appointment would have constituted assignment to an independent contractor. Accordingly, S.D. 1 provides for appropriate amendment to section 103-3, Hawaii Revised Statutes, to allow such appointment. The hire under S.D. 1 is specifically exempted from the hiring requirements of chapters 76, 77, and 87, Hawaii Revised Statutes.

C. S.D. 1 will disallow appointment of the grand jury counsel to consecutive terms. The prior version makes him "ineligible for appointment to another term during the six-

month period after the expiration" of his term.

D. Both versions allow extension of service beyond the original term in the event the grand jury's deliberation over specific matters extend beyond the grand jury counsel's term. However, the prior version provides that his term shall not be concurrent with the grand jury in order to prevent his domination of the grand jury. S.D. 1 does not so provide.

E. S.D. 1 provides for the appointee responding to call of service within 24 hours. Again, this is to accommodate emergency situations. The prior provisions did not so provide.

F. S.D. 1 specifically provides that the grand jury counsel shall not "advise the witness on the prosecution". This provision was included to obviate confusion as to his appropriate role.

G. S.D. 1 specifically provides for the grand jury counsel's disqualification in the event of conflict of interest. Prior version did not so provide.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 95, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 95, 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 Carroll.

SCRep. 685 Judiciary on H.B. No. 282

Your Committee heard testimony from Judge Masato Doi; Captain David Heaukulani of the Honolulu Police Department; Eduardo Malapit, Chairman, Supervisory Board of the State Law Enforcement and Juvenile Delinquency Planning Agency; and the Attorney General's office, all who supported the intent of the bill.

The purpose of H.B. No. 282, H.D. 1, is to bring the State of Hawaii into compliance with federal regulations, specifically section 524(b) of the Crime Control Act of 1973. This section required the Law Enforcement Assistance Administration (LEAA) to take steps to insure that agencies which "collected, stored, or disseminated" criminal history record information with LEAA funds would (1) obtain dispositions; (2) keep information current; (3) maintain security; (4) restrict use to legitimate purposes; and (5) allow inspection by the record subject. Federal regulations implemented by the LEAA and Department of Justice pursuant to this mandate urge states to establish central record repositories for maintenance of comprehensive statewide criminal history record information files. The testimony indicated that the effect of these regulations is that each state receiving LEAA funds is expected to statutorily incorporate their data center. In Hawaii's case, all functions currently being performed by the Hawaii Criminal Justice Statistical Analysis Center (SAC) will be incorporated into the H.B. No. 282, H.D. 1, data center.

House Bill No. 282, H.D. 1, also contains a provision to invalidate any provision of this bill which is held to be a state mandate pursuant to Article VIII, section 5, of the Constitution of the State of Hawaii. Under this constitutional amendment, the State is required to share in the cost with the counties of any additional services as required of the counties by legislative action pursuant to Article VIII, section 5. As H.B. No. 282, H.D. 1, has been requested by the counties to prevent the loss of LEAA funding, it is the opinion of this Committee that this bill does not fall in the ambit of Article VIII, section 5, but if the opposite is found to be true then such a provision under this bill shall be invalid.

House Bill No. 282, H.D. 1, has been amended to add a new section that mandates coordination of the SAC with the computer center under the jurisdiction of the Intake Service Centers. Great concern was expressed over the overlapping activities and functions of these two bodies, the duplication of personnel and large amount of money being spent. To alleviate these concerns, this section was added so that duplication would be eliminated.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 282, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 282, 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 Carroll.

SCRep. 686 Judiciary on H.B. No. 1394

The purpose of this bill is to increase the annual interest rate on judgments from 6% to 9% per year on any civil suit.

The present 6% interest rate on judgments was set more than forty years ago. Since that time, commercial interest rate on loans have increased twofold and in some cases threefold. Because of the low interest rate on judgments, more and more parties are appealing the judgments against them since it would be more economical to use the judgment money and pay the 6% interest thereon than to borrow the same amount from the bank and pay a higher interest. As a result, this has added to the crowded docket of the Hawaii supreme court.

By increasing the interest rate on judgments to a more realistic level, your Committee believes that it would help in reducing the crowded calendar of the Hawaii supreme court.

Your Committee, however, feels that the interest rate on judgments should be set at 8% rather than 9% because 8% is the average percentage rate of most states, and have accordingly amended the bill. Presently, the interest rate on judgments ranges between 7% to 9% for most states.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1394, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1394, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carroll.

SCRep. 687 Judiciary on H.B. No. 3

The purpose of this bill is to appropriate certain sums of money out of the general revenues of the State of Hawaii for the purpose of satisfying claims for overpayment of taxes or on account of other claims for refunds, reimbursements, or other payments.

Your Committee has reviewed the claims set forth in this bill and agrees that relief be recommended for them.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 3, 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 Kuroda, Takitani and Carroll.

SCRep. 688 Judiciary on H.B. No. 20

The purpose of this bill is to conform the Hawaii Revised Statutes to amendments to article VII, sections 8 and 9 of the state Constitution, as effected by the Constitutional Convention of 1978.

H.B. No. 20, H.D. 1 was amended to set a ceiling for state expenditures by requiring that state general fund appropriations and proposed appropriations in any year not exceed the estimated rate of growth of the State's economy for that year. This estimated rate of growth will be established by the director of finance and determined by averaging the annual percentage change in total state personal income for the three fiscal years immediately preceding the session of the legislature making appropriations.

The governor is required to take this rate of growth into consideration by submitting a plan of proposed expenditure along with the state budget, the proposed expenditures not increased by more than the ceiling established by the state growth.

The legislature is prohibited from making appropriations from the general fund which will increase those appropriations by more than the same ceiling in state growth for the preceding fiscal year.

Your Committee recommends that both the governor and legislature be allowed to exceed the appropriation allowed if the proper reasons are set forth. Also, both must decrease appropriations if the percentage change in the state growth for the preceding fiscal year has decreased.

Your Committee heard testimony from the Department of Budget and Finance and The Chamber of Commerce, and decided to use fiscal years as the basis for which the average

change in the total state personal income would be determined. The director of finance recommended calendar years, as it was felt an indicator was all we were looking for, and calendar years would give the state departments the time necessary to prepare their budgets. Your Committee, however, felt that using fiscal years would provide a more accurate indicator, as it would be six months more current. It was felt that the use of this more recent figure would not hinder the administration's ability to form their budgets.

In calculating the average percentage change in total state personal income, your Committee recommends that the director of finance use data from reliable federal sources. There was testimony to the effect that the use of state data to determine this figure may come under extreme criticism as being biased. Your Committee concurred with this sentiment.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 20, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 20, 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 Kuroda, Takitani and Carroll.

SCRep. 689 Judiciary on H.B. No. 23

The purpose of this bill is to revise chapter 39 of the Hawaii Revised Statutes so that it will conform to changes made to the State Constitution by the 1978 Constitutional Convention.

The amendments to Part III of chapter 39 relate to Constitutional changes allowing for the issuance of revenue bonds for loan programs and expanding the payment and security provisions for such bonds. Prior to the adoption of the 1978 Constitutional amendments, revenue bonds could be excluded from the debt limit only if they were issued for a physical undertaking. In addition, the payment and security for such bonds were limited strictly to the "revenues, or user taxes, or any combination of both, of a public undertaking improvement or system." In accordance with the Constitutional amendments which make revenue bonds issued for loan programs excludable for debt purposes, H.B. No. 23, H.D. 1 expands the revenues which may be used for payment of the bonds to include moneys collected from the use and services and benefits of a loan program. It would also allow as additional security for revenue bonds which may be issued for loan programs the loans or mortgages made in connection with such programs.

H.B. No. 23, H.D. 1 also repeals Part IV of chapter 39 of the Hawaii Revised Statutes and replaces it by adding a new Part IV to provide for statements and reports relating to state bonds by the director of finance. In addition, it adds new parts for reports by the governor on special purpose revenue bonds and by the legislature on declaration of findings required by section 13, Article VII of the Constitution. It also sets forth the form and content of the statements and reports and the manner of their preparation.

The statements that are to be prepared by the director of finance pertain to the state debt limit and the total outstanding indebtedness of the State and the exclusions therefrom. They are required to be prepared and certified annually as of July 1 of each fiscal year for delivery to the ensuing state legislature. In the case of the state debt limit, a statement is also required to be prepared following each issuance of general obligation bonds.

Basically, the state debt limit statement will show the relationship between the higher of the total amount of principal and interest payable in the current or any future fiscal year on all outstanding general obligation bonds less allowable exclusions and the debt limit which is a figure that is twenty per cent until June 30, 1982 (and eighteen and one-half per cent thereafter) of the average of net general fund revenues for each of the three preceding years.

The statement of total outstanding indebtedness sets forth the principal amount of the various types of bonds which may be issued under the new Constitutional provisions and those which may be excluded in determining the State's total outstanding indebtedness.

The report by the governor to the legislature covers the issuance of special purpose revenue bonds defined in section 12 of Article VII of the State Constitution. H.B. No. 23, H.D. 1 provides for the report to be prepared as of July 1 of the then current fiscal year and delivered to the legislature on or before November 30 of each year.

Finally, H.B. No. 23, H.D. 1 would add a new part to chapter 39 of the Hawaii Revised Statutes with respect to legislative determinations and findings.

Part V of chapter 39, Hawaii Revised Statutes, relating to anti-pollution revenue bonds would be repealed. This part is no longer required as the 1978 Constitutional

amendments treat such bonds as special purpose revenue bonds and separate and different legislation will be required for their implementation.

Your Committee heard testimony from Mrs. Eileen Anderson, Director of Finance, who stated that H.B. No. 23, H.D. 1 encompassed essentially technical changes, and was drafted in cooperation with the state bond counsel and the legislative reference bureau.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 23, 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 Carroll.

SCRep. 690 Judiciary on H.B. No. 98

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The pertinent language of article VI, section 3 to which such conformance is addressed by this bill reads as follows:

"There shall be a salary commission to review and recommend salaries for justices and judges of all state courts. Justices and judges shall have salaries as provided by law."

H.B. No. 98, H.D. 2, would appoint a nine-member judicial salary commission to provide review of judicial salaries every five years. Five members are to be appointed by the chief justice, two by the president of the senate and two by the speaker of the house of representatives.

Your Committee feels that as the chief justice's own salary will be the subject matter of review by the judicial salary commission, conflict of interest considerations require that the chief justice should not be placed in that situation. Accordingly, we have amended H.B. No. 98, H.D. 2, to replace the chief justice's participation with gubernatorial appointment.

Your Committee considered using the legislative salary commission to review and recommend judicial salaries. In this way, the members would already have some expertise and experience in the procedure of review and recommendation of salaries. However, the legislative salary commission is a body created by the State Constitution that has met for this year and dissolved, and will not meet again for eight years. We would not benefit, then, from the use of an existing body and not having to create a new commission, as new appointments by the Governor are necessary for the legislative salary commission to meet again to recommend judicial salaries. As such, it is the hope of your Committee that the Governor would appoint members of the Legislative salary commission to the judicial salary commission, so it may benefit from their experience.

Similarly, we have amended H.B. No. 98, H.D. 2 to place the commission within the office of the governor for staff and administration.

We are also cognizant of the substantial expertise acquired by members of the Judicial Council in the course of their years of review of matters of judicial service. We would expect that the Judicial Salary Commission would consult the Judicial Council as one source, and a very important one, to facilitate its function.

Your Committee also amended the bill to place the judicial salary commission under Chapter 608, Hawaii Revised Statutes, relating to expenses and salaries of the courts.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 98, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 98, 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 Kuroda, Takitani and Carroll.

SCRep. 691 (Majority) Consumer Protection and Commerce on H.B. No. 171

The purpose of this bill is to eliminate the 10% discount for full-time students purchasing no-fault insurance.

Your Committee held a hearing on the companion bill, S.B. No. 205, on February 5, 1979.

Your Committee has received testimony from the Motor Vehicle Insurance Division indicating that youthful drivers have received an average rate decrease of approximately 64% because of the elimination of such factors as age, sex and marital status. Most students are in the "youthful driver" category and thus it is hard to justify an additional 10% rate decrease. There is also no actuarial justification since youthful drivers are also known to have a disproportionately high number of accidents.

Your Committee has amended this bill by making technical changes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 171, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 171, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda, Yim and Yee. Senator Campbell did not concur.

SCRep. 692 Consumer Protection and Commerce on H.B. No. 600

The purpose of this bill is to increase the various recording fees for partnerships to meet the costs of providing the requisite service.

Your Committee held a hearing on the companion bill, S.B. No. 656, on February 21, 1979.

Your Committee is in agreement with the testimony presented by the Department of Regulatory Agencies which clearly indicated that the costs expended to administer these services exceeded the revenues generated by over 100%. This bill will bring about a balance between cost and revenue.

Your Committee has amended this bill by adding a provision requested by the Department of Regulatory Agencies, to charge a \$1 fee for each name recorded as aforesaid.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 600, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 600, 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 Kuroda and Yee.

SCRep. 693 Consumer Protection and Commerce on H.B. No. 602

The purpose of this bill is to increase the fee schedule to financial institutions for services in the State in order to create revenues needed to meet the cost of services.

Your Committee held a hearing on the companion bill, S.B. No. 658, on February 21, 1979.

Your Committee is in agreement with the testimony that was provided indicating this bill will establish a better relationship between revenues derived and the cost of services. Currently, administrative costs do not cover the costs of investigation, review and public hearings on applications. This bill will shift the burden of cost from the general taxpayer to the institution receiving the service.

This bill has been amended to make grammatical changes to page 8 of the bill. Your Committee has also amended the bill by renumbering section 6 as 7 and adding a new section 6 stating the effect of the bracketing and underscoring in the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 602, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 602, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kuroda and Yee.

SCRep. 694 Consumer Protection and Commerce on H.B. No. 603

The purpose of this bill is to increase the pharmacist examination fee.

Your Committee held a public hearing on the companion bill, S.B. No. 659, on February 21, 1979.

Your Committee agrees that the increase in examination fees from \$37.50 to \$50.00 is necessary to defray the cost of the examination and grading services of the National Association of Boards of Pharmacy as well as the administrative costs of the Department of Regulatory Agencies.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 603, 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 Kuroda and Yee.

SCRep. 695 Judiciary on H.B. No. 643

The purpose of this bill is to effect certain technical changes in chapters 11 and 12 of the Hawaii Revised Statutes pertaining to election laws.

House Bill No. 643, H.D. 1, is basically a "housekeeping" measure. Under this bill (1) the members of the board of registration will receive \$45 a day rather than \$35 a day; (2) the use of the primary registration list for precinct officials has been deleted in accordance with Article II, section 4, of the Constitution of the State of Hawaii; (3) the date of instruction for precinct officials has been left to the discretion of the chief election officer or county clerk; (4) voting units will be designated by a uniform identification system to be determined by the authorized representative of the chief election officer; and (5) the requirement that the clerks certify the actual number of absentee ballots after an election has been deleted.

This bill has been amended by changing the wording of sections 11-173.5 and 11-174.5, Hawaii Revised Statutes, regarding costs of court to read: "in an amount equal to the prevailing rate of costs of court". This amendment was requested by the Association of Clerks and Election Officers of Hawaii to eliminate the need to amend the law each time that the cost of court changed.

Your Committee has also amended H.B. No. 643, H.D. 1, with regard to the date nomination papers will be available to prospective candidates. Upon recommendation of the Association of Clerks and Election Officers of Hawaii, nomination papers in a regular election year will be available from the first working day of February, and for special election years sixty days before the end of filing of nomination papers.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 643, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 643, 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 Kuroda, Takitani and Carroll.

SCRep. 696 Consumer Protection and Commerce on H.B. No. 988

The purpose of this bill is to provide immunity for insurers who release information to the County Fire Chief relating to investigations concerning loss due to fires of a suspicious or incendiary origin.

Your Committee held a public hearing on the companion bill, S.B. No. 891, on February 24, 1979.

Your Committee has heard testimony that within the last several years, there has been an alarming increase in the amount of malicious fires. Due to the lack of any provision under present law which provides immunity to insurance carriers who release information concerning their clients to fire officials, there is a reluctance on their part to provide such information for fear of being held liable for damages in a civil action. Consequently, the only recourse to obtain this information is to subpoena the records of these insurers.

Your Committee has further heard testimony that across the nation, one of the prime motives for malicious fires is the filing of fraudulent insurance claims. In these situations, the records of the insured may be of evidentiary value in that a trend of fire loss claims or an increase or sudden change in insurance coverage indicates a need for a further, closer investigation. Therefore, the lack of insurance records and other information gathered by insurers has always left a void in carrying out a full fire investigation.

Your Committee feels that providing immunity to insurance carriers will allow them to readily release information regarding a client's loss or potential loss of property due

to fire without fear of liability, thereby filling the void that has been ever present in previous fire investigations and further aid in the detection and eventual deterrence of arson for profit.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 988 and recommends that it pass Second Reading and be referred to the Committee on the Judiciary.

Signed by all members of the Committee except Senators Kuroda and Yee.

SCRep. 697 Judiciary on H.B. No. 1671

H.B. No. 1671, H.D. 1 has been amended in its entirety to reflect the concern of this Committee to implement the mandate of Article II, sections 5 and 6 by placing mandatory expenditure limits on all candidates as well as affording all candidates the opportunity to obtain partial public funding for all campaigns for state and county elective office.

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The pertinent language of Article II to which such conformance is addressed by this bill reads as follows:

"CAMPAIGN FUND, SPENDING LIMIT

Section 5. The legislature shall establish a campaign fund to be used for partial public financing of campaigns for public offices of the State and its political subdivisions, as provided by law. The legislature shall provide a limit on the campaign spending of candidates.

CAMPAIGN CONTRIBUTIONS LIMITS

Section 6. Limitations on campaign contributions to any political candidate, or authorized political campaign organization for such candidate, for any elective office within the State shall be provided by law."

1. Background Considerations. Preliminarily, a brief overview of the history of legislation on the subject matter of campaign spending, contribution and disclosure is in order. First of all, comprehensive legislation over campaign spending and disclosure was enacted by the 1973 Legislature by Act 185, SLH 1973, which placed expenditure limits differentiated by schedule among different elective offices based on number of voters that must be reached; and which required disclosure on spending and contribution, but which did not place limits on contribution.

Second, the Supreme Court of the United States issued its decision in Buckley, et al. v. Valeo, et al., 424 U.S. 1 (1976) by which it ruled that the spending limits imposed by the federal law were invalid, but it validated the contribution and disclosure requirements of that law.

Third, the 1977 legislature amended the law to delete the spending limits by Act 127, SLH 1977, thereby conforming to Buckley.

Finally, the Constitutional Convention of 1978 amended Article II of the Hawaii State Constitution requiring (1) the establishment of partial public financing, (2) the provision of a limit on campaign spending of candidates, and (3) enactment of limitations on campaign contributions.

Crucial to your Committee's initial consideration of this bill was the apparent conflict between the proscription in Buckley against expenditure limits and the Constitutional Amendment's mandate to establish expenditure limits. Accordingly, we now address ourselves to an analysis of this problem.

We note for informational purposes only that the delegates to the Constitutional Convention expressed great concern in the depletion and damage of public confidence in our political process by its domination by money. It indicated its concern that the high cost of running for office generates pressures to raise inordinate sums and that such pressure has caused widespread public belief that public officials once elected cannot have "the flexibility to act in a manner detrimental to the interest of their powerful backers." It indicated its concern that high cost of campaigns also effectively discourages individuals from participating as candidates because it engenders the belief that "the political process is the exclusive domain of the rich." They concluded that our democratic process can have no meaning without a reasonable measure of public confidence in its integrity.

Addressed more specifically to the constitutional problem raised by Buckley, Standing Committee Report No. 72 of the Constitutional Convention states on page 8:

"The limitation on campaign spending is not without constitutional problems. The limitation on spending would be constitutionally justified if linked to public financing but Buckley v. Valeo, 424 U.S. 1 (1976) presents a constitutional hurdle to limiting expenditures for those not receiving public financing. Your Committee is fully aware that litigation will be necessary to determine the validity of any limits on spending by those who do not receive public financing but your Committee believes that such litigation is necessary and welcome because the public interest served by campaign spending limits is so essential."

Your Committee does not, and has not, considered the foregoing Committee Report as in any way mandatory upon our task, but have recited it for informational purposes only. We are, nonetheless, aware that the constitutional issue raised in Buckley and which is addressed by the Constitutional Amendment's mandate to establish expenditure limits, falls on the First Amendment. We are mindful that the First Amendment must necessarily afford the broadest protection to political expression and ensure unfettered interchange of ideas.

The Buckley case did not address itself to the problem of the failure of public confidence in our political process. Rather, that decision is founded on the proposition that expenditure limits are invalid because they reduce "the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached." 424 U.S. at 19 and 20. It is our view generally that it would be within the permissible confines of Buckley if expenditure limits are established in reasonable protection of the public's right to participate meaningfully in the political process and to be reasonably secure in its confidence in the integrity of our political process.

2. Structural Changes to Present Law. In keeping with the mandate of Article II, Sections 5 and 6 of the Hawaii Constitution, this bill is comprised of three major sections: contribution limits, expenditure limits, and partial public financing of campaigns. Briefly, these provisions under this bill are as follows:

A. Contribution Limits (pp. 24-25).

(1) Campaign contributions from a person have been limited to \$2,000 for a primary, special primary, or general election.

(2) Campaign contributions from political parties have been limited to the following percentages of the expenditure limit for each elective office:

20% for the offices of governor, lieutenant governor and mayor;

30% for the offices of state senator and county council member; and

40% for the offices of state representative and the board of education.

B. Expenditure Limits (pp. 27-28). Expenditure limits have been set for each statewide, county, or district office based on the total number of registered voters for the last preceding general election for a particular race multiplied by the following amounts for a primary, special primary and general election:

for the office of governor -- 1 dollar and 20 cents;

for the office of lieutenant governor -- 70 cents;

for the offices of mayor and prosecuting attorney -- 90 cents;

for the offices of state senator and county council member -- 70 cents;

for the office of state representative -- 70 cents; and

for the office of the board of education and all other offices -- 5 cents.

No candidate can spend more than sixty per cent of his respective expenditure limit for either the primary or general election. As a measure to offset the inflation rate, an increase of five percent per year after 1980 will be added to the base amounts as set forth above.

C. Campaign Fund (p. 38). Public funds to partially finance all campaigns for primary, special primary, and general elections will be generated by:

- (1) An optional tax check-off of \$2 for each individual with a state tax liability of \$2 or more;
- (2) An appropriation from general fund revenues, if the amount collected under subsection (1) is insufficient to partially finance all races; and
- (3) All fines collected or moneys returned to the fund pursuant to any provision of this chapter.

All funds received pursuant to subsections 1 through 3 above shall be deposited in the Hawaii election campaign fund.

D. Public Funding (pp. 38-40). A candidate for statewide, county, or district office shall be eligible to receive up to twenty per cent of the expenditure limit set for his respective office upon reaching a qualifying sum of private contributions. A candidate qualifies for public funds by raising private contributions of \$10 or more from a set number of donors. Upon qualifying for public financing, a candidate will receive fifty per cent of his total allotment of public funds. Supplemental funds may be requested up to the maximum up to ten days prior to an election. Each candidate who receives public funds must agree to abide by the expenditure limit set for his respective office.

E. Tax Credit (pp. 43-44). S.B. No. 1292, S.D. 1 also includes a section designed to allow a tax credit for taxpayers who contribute to candidates who have agreed to abide by spending limits. The taxpayer may deduct up to fifty per cent of his contribution, but not more than \$25 for an individual, or \$50 for a married couple filing jointly. Tax credit forms shall be distributed only to candidates who have agreed to limit their expenditures. All taxpayers who wish to take the tax credit must obtain the credit form from the candidate. The names of all candidates who do not agree to limit their expenditures shall be published in the newspaper.

3. Spending Limit. As previously discussed, your Committee is aware of the severe impact of Buckley with regard to spending limits and public confidence. We are aware that many are demoralized by the notion that Buckley will permit absolutely no limitation to spending, and that by such construction, the entire nation must, in the name of free speech, allow an eventual and total commercialization of our political process. We do not subscribe to such pessimism, and believe that as with everything else campaign spending must admit of limitations that reflect responsible respect for the rights of others.

Your Committee has labored many hours over the spending limits concerned particularly that such limits should allow abundance of opportunity to communicate fettered only in reasonable protection of public confidence. In our deliberations we considered, among other things:

- (1) The nature and make-up of the respective voting population;
- (2) Information from past elections;
- (3) Cost data of the various media of communication and modes of campaigning;
- (4) The probable effect of the level of expenditures in obtaining the willingness of individuals to lend themselves to candidacy;
- (5) The probable effect in maintaining a level of public confidence in our political process necessary to retain a believable democracy; and
- (6) The preservation of each candidate's full and reasonable exercise of his right of expression, reflecting abundance by way of allowing a generous quantity of ideas, and the size of the audience to be reached in each voting district.

Upon such labor, your Committee specifically finds that each of the respective spending limits would be in reasonable balance for the election of 1980 so as to afford protection to public confidence without placing undue burden on each candidate's right of free and adequate expression. Additionally, we have allowed a five per cent annual increase over the limit so provided so that such limits should in actuality be greater than our projections in 1980. We have done this so that any error in our projection should fall toward allowing a more generous limit than otherwise, and to offset the rate of inflation each year.

Our review of the spending pattern for the election years commencing 1974 reveals that the candidates in 1974 were able to readily comply with the spending limits established by the 1973 legislation, and that no complaint was made under that law by any candidate that he had been in any way burdened in his right of expression.

Such review also shows that for all offices other than governor and mayor the spending pattern of the candidates had by and large closely reflected the 1973 limitation figures in the elections of 1976 and 1978. If the gubernatorial and mayoral races veered from the norm, it is precisely in these races that public confidence has suffered grave demoralization because "money" has obtained apparent reign over our democratic process.

H.B. No. 1761, H.D. 1 also provides for the commission to study and report to the legislature recommending campaign spending and contribution limits one year before each election. The purpose of this is to enable the legislature to keep pace with such changes that may have taken place to effect statutorily established limits and to effect necessary changes if the circumstances so require.

4. Contribution Limits. The United States Supreme Court in Buckley found the \$1,000 contribution limitation upon individuals and groups to candidates and authorized campaign committees imposed by the federal law to be valid. The \$1,000 contribution limitation was found valid because it served the purpose of limiting "the actuality and appearance of corruption resulting from large individual financial contributions." The Court also noted very gravely that "to the extent that large contributions are given to secure a political quid pro quo from current and potential office holders, the integrity of our system of representative democracy is undermined. Although the scope of such pernicious practices can never be reliably ascertained, the deeply disturbing examples surfacing after the 1972 election demonstrate that the problem is not an illusory one."

Your Committee has deliberated upon the contribution limits along lines of analysis similar to that followed in our establishment of the spending limit, with the additional concern that these contribution limits should prevent corruption while at the same time allowing candidates reasonable adequate exercise of political expression.

We have also reviewed contribution limits in two other respects. First is the concern that political parties, whose *raison d'être* is the election of party candidates should be allowed to contribute to candidates of its own affiliation in excess of the individual limits. In this regard, we heed the need for healthy party affiliation if new ideas and candidates are to be encouraged to participate in our political process. H.B. No. 1671, H.D. 1 will allow a political party to contribute up to given percentages of candidates' respective spending limits.

Your Committee has also considered that immediate family members of a candidate should not be inhibited by any contribution limitations. H.B. No. 1671, H.D. 1 defines "immediate family" following federal law.

5. Disclosure Requirements. Buckley acknowledged that "there are governmental interests sufficiently important to outweigh the possibility of the infringement (of First Amendment rights)" in campaign reporting and disclosure requirements because the "free functioning of our national institutions is involved."

Sufficient magnitude of governmental interest was involved in the reporting and disclosure requirements of the federal law in Buckley because of (1) its informational value, with the "sources of a candidate's financial support" alerting the voters "to the interests to which the candidate is most likely to be responsive," (2) its deterrence of corruption "by exposing large contributions and expenditures to the light of publicity", and (3) its value as "an essential means of gathering data necessary to detect violations"

In that regard, H.B. No. 1671, H.D. 1 provides for comprehensive disclosure and reporting requirements and empowers the commission with audit and subpoena responsibilities in order that public scrutiny and enforcement of spending and contribution limits are adequately enhanced.

6. Disclosure Requirements and Ballot Issues. The attention of your committee has been brought to page 6 of Attorney General's Opinion No. 76-2 which states:

"We are of the opinion, however, that (disclosure and reporting) provision cannot be applied to committees not controlled by a candidate and which merely support a ballot issue." (Parentheses added.)

Your Committee has reviewed Buckley in this regard and is of a different interpretation.

We are mindful of the strict test applied by the courts in determining the validity of governmentally compelled disclosure requirements. We are also mindful that in Buckley, the U. S. Supreme Court narrowly construed the operation of the federal spending and

contribution disclosure requirements on individuals and groups that are not candidates or political committees, and said that the statutory language in that regard governed only "contributions earmarked for political purposes" and expenditures "for communications that expressly advocate the election or defeat of a clearly identified candidate."

However, nowhere in that decision did the U. S. Supreme Court specifically prohibit contribution disclosure requirements imposed upon ballot issues. We think that to construe Buckley as prohibiting such requirements constitutes overbreadth in the interpretation of that decision.

The reason for our view is that the U. S. Supreme Court validated disclosure requirements in Buckley as bearing "sufficient relationship to a substantial governmental interest" because such requirements served "informational interest" and imposed "a reasonable and minimally restrictive method of furthering First Amendment values by opening the basic processes of our federal election system to public view." 424 U.S. 81-83.

We deem it similarly important to bring information of contributonal support of ballot issues in our election system to public view so that the electorate may have full opportunity to exercise its right to know. Certainly, where particular ballot issues may be advantageous to specific private interest groups, the electorate must be able to exercise its right of franchise with the full opportunity to be informed of the extent of financial support being heaped in favor, or in opposition, of such ballot issues. We think that the public's right to be properly informed is a substantial governmental interest and reasonable requirements for disclosure in that regard are not prohibited as impermissible violations of the First Amendment by the Buckley decision.

Accordingly, we have retained the disclosure requirements pertaining to ballot issues in the present law.

7. Enforcement and Severability. H.B. No. 1671, H.D. 1 provides two essential methods of enforcement. The first is the penalty provision which makes violation of the provisions punishable as a petty misdemeanor in the case of individuals, and by fine not to exceed \$1,000 in the case of corporations, organizations, associations and labor unions.

In conjunction with the penalty provision, any person is empowered to "sue for injunctive relief to compel compliance"

Also, the penalty provision does not exclude prosecution under appropriate provisions of the Hawaii Penal Code. For instance, if a candidate misuses public funds, he would also be subject to prosecution under section 708-874 governing "misapplication of entrusted property."

The second method of enforcement is entrusted to the commission by way of bringing public notice to (1) a candidate's indication of his unwillingness to agree to reasonable spending limits, (2) his exceeding the spending limit, (3) his failure to file a report, and (4) other flagrant violations of the campaign spending law.

To provide protection against abuse of the public notice function, the commission is required to act reasonably in bringing fair public notice to the incident or violation involved.

Finally, H.B. No. 1671, H.D. 1 contains a severability clause, the purpose of which is to protect against invalidation of the provisions of the bill in their entirety should one or several separate provisions be ruled invalid.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1671, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1671, 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 Kuroda, Takitani, Carroll and Saiki.

SCRep. 698 Judiciary on H.B. No. 2

The purpose of this Act is to provide appropriation for the Judiciary.

H.B. No. 2, H.D. 1 reflects revision of operating expenditures of the original budget in the following respects: (1) salary turnover savings, and additions of a library technician in the Circuit Court of the Fifth Circuit. It also reflects revisions of the CIP by deletion of the second year funding.

Your Committee has amended H.B. No. 2, H.D. 1 by deletion of the changes described

in the above paragraph and affecting the following changes to the original budget.

Court Operations.

1. Court of Appeals. (JUD 101) No change. The increase reflects the establishment of the intermediate appellate court with three judges and their staffs.

2. Land Court/Tax Court. (JUD 111)

A. First Circuit. No change. All items have been found to be justified.

B. Second Circuit. No change. All items have been found to be justified.

C. Third Circuit. No change. All items have been found to be justified.

D. Fifth Circuit. No change. All items have been found to be justified.

4. Fourth Circuit. (JUD 112) All items have been found to be justified except that the volunteer coordinator for each of the Second, Third, and Fifth Circuits have been deleted from the budget on a finding that a full-time volunteer coordinator in those circuits is not justified as the volume of the caseloads for those circuits warrant only part-time coordinators.

The changes effected for the Family Courts translate as follows:

FY 1979-80 \$4,386,399 - 35,502 = \$4,350,897
 FY 1980-81 \$4,462,735 - 37,152 = \$4,425,583

5. District Courts. (JUD 121) The changes effected are the deletion of the following items from the budget of the District Court of the First Circuit:

A. Deletion of one court clerk position;

B. Deletion of the position for one clerk-stenographer I from the Counselling Service.

C. Deletion of one keypunch operator and one clerk-typist II position from Data Processing.

The reduction of the District Courts budget results as follows:

FY 1979-80 \$5,552,115 - 38,964 = \$5,513,151
 FY 1980-81 \$5,525,795 - 40,740 = \$5,585,055

The positions for eight security guards requested by the Judiciary have been included in the attorney general's budget. The security guard positions are to be available to the Judiciary and are to be part of the capitol security force. The moneys for this item amounting to \$83,724 for FY 1979-80 and \$87,528 for FY 1980-81 have been included in the Judiciary budget. The Judiciary will compensate the attorney general for this service while the attorney general will train and provide services to these guards as a part of the entire force.

Support Services.

1. Administrative Director Service. (JUD 201) All items have been found to be justified.

2. Law Library. (JUD 202) All items have been found to be justified.

3. Driver Education and Training. (JUD 221) The position for illustrator has been deleted to effect the following changes:

FY 1979-80 \$628,594 - 10,344 = \$618,250
 FY 1980-81 \$648,073 - 18,812 = \$629,261

4. Criminal Justice Information System Data Center. (JUD 231) All items have been found to be justified.

Your Committee has made no changes to the capitol improvement budget for construction costs for the Honolulu District Court. The additional \$2,200 and \$2,220 for FY 197980 and FY 198081 are due to increases in building costs during the lapse of one year in the planning process.

Your Committee also highly recommends the immediate acquisition of the Bishop Estate property at Halekauwila and Punchbowl Streets for additional building space that will be needed to house the Circuit Court and the Family Court complex. We feel that present acquisition of the site at reasonable cost will avoid higher acquisition costs later.

Your Committee does not find additional acquisition of land by the Judiciary would be warranted at this time.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2, 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 Kuroda, Takitani, Carroll and Saiki.

SCRep. 699 Judiciary on H.B. No. 92

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article VI to which conformance is addressed by this bill reads as follows:

"ARTICLE VI

THE JUDICIARY

JUDICIAL POWER

Section 1. The judicial power of the State shall be vested in one supreme court, one intermediate appellate court, circuit courts, district courts and in such other courts as the legislature may from time to time establish. The several courts shall have original and appellate jurisdiction as provided by law and shall establish time limits for disposition of cases in accordance with their rules.

SUPREME COURT; INTERMEDIATE APPELLATE COURT;
CIRCUIT COURTS

Section 2. The supreme court shall consist of a chief justice and four associate justices. The chief justice may assign a judge or judges of the intermediate appellate court or a circuit court to serve temporarily on the supreme court, a judge of the circuit court to serve temporarily on the intermediate appellate court and a judge of the district court to serve temporarily on the circuit court. As provided by law, retired justices of the supreme court also may serve temporarily on the supreme court at the request of the chief justice. In case of a vacancy in the office of chief justice, or if the chief justice is ill, absent or otherwise unable to serve, an associate justice designated in accordance with the rules of the supreme court shall serve temporarily in place of the chief justice."

1. Overview of the legislative task. Initially, your Committee feels that a brief clarification of the guidelines it has considered for bills referred on matters addressed to amendments to the Hawaii State Constitution, is in order. In this regard, we preliminarily note the differentiated role between the Constitution and our legislative responsibility. The Constitution sets out the essential structures of government and the essential rights of the governed. The function of legislation is to provide necessary details to the Constitutional framework and within its confines provide comprehensive laws in the interest of general welfare. Upon that note, your Committee observed the following guidelines:

First of all, conditioned upon consideration of the federal constitution, your Committee has considered itself bound by the expressed language of the amendments to the Constitution and also by matters inescapably implicit in such language.

Secondly, your Committee considered matters expressed by the delegates in the Committee Reports of the Constitutional Convention to be discussions and suggestions worthy of serious consideration, but advisory only and not mandatory. We considered that the delegates to the Constitutional Convention had similar regard for the differentiated role between the Constitution and our legislative responsibility as previously discussed and would have expressed themselves in the body of the Constitution had they intended any matter to be mandatory upon the legislature.

Thirdly, your Committee considered all testimony addressed to matters allegedly intended by the delegates but found dehors the Constitution and committee reports, to be beyond the proper purview of this Committee's deliberation. We felt that consideration of such

matters would promote arguments and discussions of matters already decided by the amendments.

Lastly, your Committee in inviting and receiving testimonies from the public, considered the same to be relevant to our legislative function, only insofar as they were consonant with Constitutional mandates, with the single exception of matters in consideration of the federal Constitution.

2. Analysis of the jurisdictional provision of H.B. No. 92, H.D. 2. The legislative task presented by Article VI, sections 1 and 2 is to establish one intermediate appellate court which "shall have original and appellate jurisdiction as provided by law" and "time limits for disposition of cases" as provided by court rules.

The jurisdictional provision of H.B. No. 92, H.D. 2 reads in its entirety as follows:

"Sec. -4 Jurisdiction and powers. (a) The intermediate court of appeals shall have jurisdiction and powers, except as otherwise provided in subsection (b), and subject to rules adopted by the supreme court, as follows:

- (1) To hear and determine all questions of law, or of mixed law and fact, which are properly brought before it on any appeal allowed by law from any other court or agency;
- (2) To answer, in its discretion, any question of law reserved by a circuit court, the land court, or the tax appeal court, or any question or proposition of law certified to it by a federal appellate court if the supreme court shall so provide by rule;
- (3) To make or issue any order or writ necessary or appropriate in aid of its appellate jurisdiction, and in such case any judge may issue a writ or an order to show cause returnable before the court;
- (4) To make and award such judgments, decrees, orders, and mandates, issue such executions and other processes, and do such other acts and take such other steps as may be necessary to carry into full effect the powers which are or shall be given to it by law or for the promotion of justice in matters pending before it.

(b) The supreme court shall provide by rule an appellate procedure for criminal and civil appeals defining which appeals shall be heard only by the intermediate court of appeals, which appeals shall be heard by the intermediate appellate court and then by the supreme court."

We analyze the foregoing as follows: Subsection (a) enumerates functions which the intermediate appellate court is authorized to undertake after it has assumed jurisdiction of a case. Accordingly, it enumerates such court's powers "to hear and determine," "to answer . . . questions of law," "to make or issue any order or writ," and "to make or award . . . judgments, decrees . . ." All such enumerated powers in subsection (a) are conditioned upon the words "except as otherwise provided in subsection (b), and subject to rules adopted by the supreme court . . ."

As such, the focal subsection of the jurisdictional provision of H.B. No. 92, H.D. 2 is subsection (b) by which it seeks to establish that the "supreme court shall provide by rule an appellate procedure . . . defining which appeals shall be heard . . ." by the intermediate appellate court and the supreme court, and which will be accorded hearings at both levels of appeal.

We are cognizant of the language in Standing Committee Report No. 231 of the house of representatives indicating that H.B. No. 92, H.D. 1 "provides for another court having the same powers and jurisdiction as the supreme court but subject to rules of that court." Noting that H.B. No. 92, H.D. 2 did not amend the earlier version in this respect, your Committee upon analysis, notes that the "jurisdiction" or the power of the intermediate appellate court to hear and decide a particular class of cases, or any case for that matter, is, by the jurisdictional provision of H.B. No. 92, H.D. 2, for the supreme court to "provide by rule."

The crucial question is whether in the face of the Constitutional language that the "several courts shall have original and appellate jurisdiction as provided by law," the statutory method as set forth by H.B. No. 92, H.D. 2 is valid. Your Committee enters into this review with some reluctance, and would be inclined to give some deference to the serious considerations of such question that must have been previously accorded. However, we are constrained to enter into this review because of the grave responsibility entrusted to us by the Constitutional mandate and because of the clear language of such mandate placed before us by Article VI, section 1.

A. Definition of "jurisdiction" and construction of Article VI, section 1. As a first step, "jurisdiction" is found to be defined as "the power to hear and decide a case of that particular class" See In re Abreu, 27 Haw. 237 at 245 (1923); see also Mattos v. Wilcox, 10 Haw. 186 at 187 (1896). "It is the authority by which courts and judicial officers take cognizance of and decide cases." Black's Law Dictionary, Revised Fourth Edition, 1968. It is "a term used in two senses as it applies to a court: (1) in a general sense, the abstract right of a court to exercise its powers in causes of a certain class; (2) in a particular sense, the right of a tribunal to exercise its power with respect to a particular matter." Ballantine's Law Dictionary, Third Edition, 1969.

Turning to the precise language of Article VI, section 1 once again, we carefully note that the applicable sentence reads in its entirety as follows:

"The several courts shall have original and appellate jurisdiction as provided by law and shall establish time limits for disposition of cases in accordance with their rules."

Ordinary reading of the sentence simply requires this legislature to consider the "original and appellate jurisdiction" of the intermediate appellate court, take them in conjunction with the other constitutional courts, and "provide (the same) by law." In that connection, "provided by law" when used in constitutions, generally means prescribed or provided by statutes. Lawson v. Kanawha County Court, 92 S.E. 786.

Your Committee also notes that the jurisdictional structures of all other courts are separately provided by statutes and that that was the posture when Article VI was placed before the voters for ratification. See section 602-5 (supreme court), section 603-21.5 (circuit court), and sections 604-5, 604-8, 604-11, and 604-11.5 (district courts). Accordingly, the inclusion of the intermediate appellate court into the collective phrase "the several courts" requires that its jurisdiction be similarly provided by statute.

Finally, when read in comparison with the provision in the same sentence of Article VI that "time limits for disposition of cases" be established "in accordance with . . . rules," the language "provided by law" addressed to the subject of jurisdiction excludes its treatment by rules. Simply stated, that sentence must make sense, and each part must be given meaning commensurate with the differentiated language.

B. The supreme court's rule making power under Article VI, section 6. Your Committee is aware of the presumption of validity that attends laws enacted by the legislature. With that in mind, and also concerned that H.B. No. 92, H.D. 2 should be read with every possible deference to its presumed validity, we have given serious consideration to Article VI, section 6 which states as follows:

"Section 6. The supreme court shall have power to promulgate rules and regulations in all civil and criminal cases for all courts relating to process, practice, procedure and appeals, which shall have the force and effect of law."

In this connection, we are aware that statutory provisions invading the supreme court's rule making power over procedural matters are invalid. State v. Hawaiian Dredging Co., 48 Haw. 152 (1964) and Kudlich v. Ciciarelli, 48 Haw. 291 (1965). See also Arnold v. City and County, 45 Haw. 165 (1961). We note footnote 15 in Kudlich, 48 Haw. at 301 where the supreme court said:

"We do not, of course, mean to intimate that a rule of practice could invade a matter of substantive right"

The first inquiry with respect to Article VI, section 6 is whether the language of Article VI, section 1 with regard to the establishment of the jurisdiction of the intermediate appellate court, is ambiguous so as to require consideration of matters dehors section 1. Your Committee is inclined to the view that the language "the several courts shall have original and appellate jurisdiction as provided by law . . ." is explicit and sufficiently stands on its own right.

Nonetheless, assuming for purposes of argument that there is ambiguity, even then, the rule of construction that specific language must preside over more general language would require that appellate jurisdiction be provided by statute. More particularly, the language "original and appellate jurisdiction" used in section 1 is more specific than the word "appeals" used in section 6. So construed, sections 1 and 6 would mean in composite that "appellate jurisdiction" must be established by statute in compliance with section 1, and that upon its statutory establishment, further details of appeal and certainly appellate procedure, should be governed by supreme court rules promulgated pursuant to section 6.

Such a construction would also conform to the rules of construction that the separate sections be read together and as a whole, and, that each section be given meaning which would allow all of the sections to retain a sensible relationship to each other. Simply stated, it must be presumed that Constitutional sections were drafted to make sense when read together.

It may also be argued that as the jurisdictional provision of H.B. No. 92, H.D. 2 is couched in procedural terms -- "the supreme court shall provide by rule an appellate procedure . . . defining which appeals shall be heard . . . etc." -- that that fact suffices to place it within the confines of Article VI, section 6. The answer to that is that "substance" must be given precedence over "form." The essential purpose of subsection (b) is to "define which appeals shall be heard." This is essentially jurisdictional and calling it "appellate procedure" does not change its substance.

C. The effect of establishing jurisdiction by statute. Turning now to the positive effects of establishing the intermediate appellate court's jurisdiction by statute rather than by court rules, your Committee has concluded that the criteria controlling case assignment between the intermediate appellate court and the supreme court are of such crucial significance as to warrant statutory recognition. Party litigants and interested persons should be able to look to the Hawaii Revised Statutes for the criteria whereby cases are to be selected for direct review by the supreme court. The court rules are decidedly more limited in the scope of readers to whom they are addressed, while the Hawaii Revised Statutes is in general acquaintance. We think the Hawaii Revised Statutes would more effectively afford a measure of certainty to litigants and potential litigants as to which court their appeal is likely to be assigned.

D. Conclusion. For the foregoing reasons, your Committee has reached the conclusion that we must provide for the original and appellate jurisdiction of the intermediate appellate court by specific legislation. Your Committee considers this issue with very grave concern. Should we establish the jurisdiction of the intermediate appellate court by supreme court rules, it is likely to be subjected to Constitutional challenge. The fact that such treatment does not accord with the obvious language of Article VI, section 1 would invite such challenge. Should the jurisdiction of the intermediate appellate court be found invalid, it will cause hardship to all litigants whose cause shall be pending before that court, and until subsequently rectified, the result of such defect will magnify appellate congestion rather than relieve it. Thus, with measured reluctance, your Committee has amended H.B. No. 92, H.D. 2 to refashion the jurisdictional provision and all other provisions necessarily linked to the concept of establishing jurisdiction by supreme court rules.

3. Giving due consideration to the transactions of the Constitutional Convention. Having defined the legislative task of H.B. No. 92, we next note that central to that task is the delineation of the jurisdiction and powers of the intermediate appellate court and its coordination with that of the supreme court and that of other courts and sources of appeal. There was serious discussion on the subject by the delegates to the Constitutional Convention, and we now turn our attention in that direction:

First of all, and most significantly, the delegates to the Constitutional Convention set out their basic concern for the establishment of the intermediate appellate court to be the urgent need to relieve the extreme congestion of cases presently in the supreme court and the inordinate delay of appellate disposition that has resulted. Standing Committee Report No. 52 of the Constitutional Convention indicated at page 3 its "basic concern over the evergrowing congestion of cases at the appellate level of our judicial system and the concurrent increase in the length of time it takes for both civil and criminal cases to reach a conclusion."

Your Committee recognizes that implicit in this concern is the need to fashion a jurisdictional structure for the intermediate appellate court that will, by the challenge and scope of its responsibility, be able to attract the best and most qualified men to its bench, and which will address the problems of appellate congestion by effectuating smooth coordination among the different courts and effective distribution of workload for the appellate process.

The delegates to the Constitutional Convention also addressed themselves to a brief discussion of the many objectives the intermediate appellate court should achieve in addition to the relief of appellate congestion. Standing Committee Report No. 52 states on pages 3 and 4:

"Your Committee, after careful consideration of all the proposed solutions to the problem of appellate congestion, recommends the establishment of an intermediate appellate court as the best, most effective and permanent solution to the problem. It is intended that the major duty of the intermediate appellate court will be to handle the more routine

appellate cases of reviewing trial court determinations for errors and correcting such errors. This function is presently performed by the Supreme Court. By relieving the Supreme Court from this necessary but time consuming function, the Supreme Court can devote more time to its principal duty of selective review and formulation of decisional law. It is intended, however, that both the supreme court and intermediate appellate court have jurisdiction to hear all types of cases. A unitary filing system would be instituted by which all cases on appeal would be filed with one clerk's office and would require only one filing fee regardless of which or if both appellate courts review the case. The Supreme Court could use a bypass mechanism to immediately hear, in its discretion, special types of appeals. Although all double appeals could not be avoided, this mechanism would keep those to a minimum. It is intended, however, that in most instances, appellate review would be terminated at the intermediate appellate level. This two-tiered appellate system would preserve the vital law-shaping function of the Supreme Court and also insure a litigant's right to a meaningful appeal by affording a review on the merits without unnecessary delay."

Your Committee notes that the foregoing discussion recognizes the many and serious problems involved in fashioning the structure of the intermediate appellate court. Upon analysis, the language of Standing Committee Report No. 52 suggests a structure that should broadly:

- (a) require the intermediate appellate court to handle the more "routine appellate cases; "
- (b) allow such court, together with the supreme court, to hear "all types of cases; "
- (c) allow the supreme court a "by-pass" in the hearing of "special types of appeals; "
- (d) afford the desired result of minimizing "double appeals; " and
- (e) preserve the "vital law-shaping function of the supreme court."

Additionally, Standing Committee Report No. 52 suggests a unitary filing system and imposition of a provision to ensure "a review on the merits without unnecessary delay."

The foregoing enumeration and terse discussion of the various objectives sought to be achieved indicates to your Committee that the delegates to the Constitutional Convention intended that the legislature should act affirmatively to explore these separate objectives, weigh their interrelationship and obtain a rational balance among them in fashioning the ultimate structure for the intermediate appellate court.

4. Amendments made to H.B. No. 92, H.D. 2. Your Committee has amended H.B. No. 92, H.D. 2 by replacing the same with the substance of S.B. No. 53, S.D. 1. This was done because your Committee's concern as to the validity of the jurisdictional structure of H.B. No. 92, H.D. 2 could not be met by effecting minimal changes. We would note, however, that the bulk of the changes are technical changes to very many statutory provisions addressed to judicial review respecting appeals from hearings held before administrative agencies. Accordingly, H.B. No. 92, S.D. 1 does not represent substantive changes to H.B. No. 92, H.D. 2 as a matter of volume, although provisions respecting jurisdiction of the intermediate appellate court have been amended. More particularly, H.B. No. 92 in the form of S.D. 1 accomplishes the following:

A. Nomenclature. Your Committee has substituted the nomenclature "intermediate appellate court" for the nomenclature "intermediate court of appeals" as used in H.B. No. 92, H.D. 2. This was done as "intermediate appellate court" is the term specifically used in Article VI.

B. In keeping with the previous discussion regarding the need to establish the jurisdiction of the intermediate appellate court by statutory provision rather than allowing the same to be managed by supreme court rules, your Committee has amended the structure of H.B. No. 92, H.D. 2 to provide the jurisdictional structure by statute in the manner described in the following parts of this report.

C. Unitary filing. All appeals are to be filed with the intermediate appellate court, whether the appeal is destined for the supreme court or the intermediate appellate court. There is to be only one filing fee. This establishes the "unitary filing system" suggested by the Constitutional Convention.

D. Certification. In every appeal, a party or the court itself may move for consideration by the intermediate appellate court that the case be deemed of such importance that direct supreme court review is required.

It is expected that such motion will be entertained at the initial stage of appeal. However, it is intended that such motion may be filed at any time in order to accommodate a subsequent realization of the seriousness of the case. It is also provided that the intermediate appellate court's determination as to whether a case should or should not be certified shall not be subject to appeal.

The scope of cases governed by the certification process is intended to reach "all types of cases," as suggested by the Constitutional Convention. We construe that suggestion to express the concern that the jurisdictional breadth of the intermediate appellate court should be fashioned to encompass the widest variety of cases so as to allow jurisdictional variety and challenge.

E. Criteria for certification. To preserve "the vital law-shaping function of the supreme court," H.B. No. 92, H.D. 2, S.D. 1 provides that the intermediate appellate court should certify a matter to the supreme court only if that case "invokes a question of such importance that it should require direct review . . . by the supreme court."

The foregoing language was adapted from similar language appearing in the laws of the state of Illinois. However, your Committee found it desirable that such broad language be supplemented by a list of more specific criteria to which the intermediate appellate court may refer.

Your Committee owes much for the criteria provided in this report on H.B. No. 92, H.D. 2, S.D. 1 to former Justice of the Supreme Court, Bert T. Kobayashi. The criteria which the intermediate appellate court are expected to consider in determining whether a matter before it is of "such importance" as to require direct supreme court review are:

- (1) whether the case involves a question of first impression or presents a novel legal question; or
- (2) whether the case involves a question of state or federal constitutional interpretation; or
- (3) whether the case raises a substantial question of law regarding the validity of a state statute, county ordinance, or agency regulation; or
- (4) whether the case involves issues upon which there is an inconsistency in the decision of the intermediate appellate court or of the supreme court; or
- (5) whether, in a criminal case, the sentence involved is life imprisonment without the possibility of parole.

It should be emphatically noted that the foregoing criteria is not intended to exclude the intermediate appellate court's consideration of other criteria which may be relevant upon the general consideration of the "importance" of a particular case.

It should also be noted that the existence or absence of any among the listed criteria is not to be determinative of the question of certification exclusive of other considerations. Rather, it is specifically provided that the intermediate appellate court is allowed to consider the substantiality of the applicable criteria in each case.

It is also expected that the intermediate appellate court will give adequate consideration to the workloads of both courts in determining case assignment and withdrawals of certification.

Finally, it is provided that the intermediate appellate court's **failure** or refusal to certify a case, or its withdrawal of a certification, shall not be appealable. The proper vehicle for any grievance in that regard is the application for writ of certiorari after disposition of the case by the intermediate appellate court.

F. Supreme court acceptance or rejection of certification. Your Committee expects that there will be very little problem, if any, between the intermediate appellate court and the supreme court in the matter of certification. However, should one arise, H.B. No. 92, H.D. 2, S.D. 1 allows for the supreme court to resolve the same by its rules with the proviso that any withdrawal of a certification by the intermediate appellate court or the rejection of certification by the supreme court should be fully documented for subsequent legislative review. It is expected that effective communication between the two courts will obviate problems of case assignment between the courts.

G. Appeal from the intermediate appellate court. Every final decision of the intermediate appellate court is subject to further appeal to the supreme court, but only by certiorari,

which the supreme court may, in its discretion, refuse. Upon such refusal, or upon failure of the parties to apply for certiorari within thirty days from the issuance of the decision of the intermediate appellate court, that decision becomes final.

The allowance of the supreme court to deny certiorari is intended to minimize "double appeals." Your Committee notes that the delegates to the Constitutional Convention did not express the intention that all double appeals should be avoided but only that they be minimized. Your Committee finds that it is impossible to devise "categories" of cases which should be denied final access to the supreme court without being in some way arbitrary. Even the most lowly of circumstances, may, in the right context, derive significant societal importance so as to warrant supreme court determination. The system of discretionary certiorari will preserve the right to supreme court determination to all cases, even those of the simplest factual and legal context. However, such right to appeal is subject in all cases to the right of the supreme court to refuse it. Thus, the final arbiter as to whether any case has such societal significance as to warrant a "double appeal" will rest with the supreme court. In this manner appellate review would be terminated "in most instances" at the intermediate appellate level.

H. Supreme court by-pass of the jurisdiction of the intermediate appellate court. Your Committee expects that only the most extraordinary of circumstances will require the supreme court's imposition of its power to by-pass the jurisdiction of the intermediate appellate court. It is expected that only in the rarest instance will the intermediate appellate court fail to certify an appeal requiring an emergency review by the supreme court. Nonetheless, it is possible. Your Committee has provided for such eventuality by including a method of supreme court by-pass of the jurisdiction of the intermediate appellate court.

In emphasis of the extraordinary circumstances which should involve it, this supreme court by-pass has been confined to cases where the supreme court should deem in its discretion that the matter requires "immediate final appellate disposition in urgent resolution of a fundamental question of public policy, in order to preserve essential public order, or to prevent irretrievable damage to essential governmental process or public morale."

5. Consideration of case assignment pending appointment of judges. H.B. No. 92, H.D. 2, S.D. 1 also provides specifically for assignment of cases presently pending before the supreme court for decision by the intermediate appellate court. Such case assignment is intended to allow some measure of immediate relief to the supreme court's congested calendar.

More particularly, until appropriate appointment of the intermediate appellate judges, all appeals filed on and after the day after the effective date of this bill are subject to review by the supreme court conditioned upon subsequent assignment to the intermediate appellate court.

Additionally, such supreme court assignment of appeals to the intermediate appellate court applies to appeals filed previously to the day after the effective date of this bill; provided that all such cases involving questions of state or federal constitutional interpretation or involving criminal sentence of life imprisonment without possibility of parole shall be reviewed by the supreme court.

In such selection of cases for assignment to the court will give appropriate consideration to the criteria for case assignment between those courts as established by this bill. Additionally, such case assignment must be viewed in the light of the basic concern of the delegates to the Constitutional Convention over the need for immediate relief to the present congestion of the supreme court caseload.

6. Technical changes. H.B. No. 92, S.D. 1 also effects in excess of sixty technical amendments to the Hawaii Revised Statutes. These changes consist of the bulk of this bill and are, in the main, addressed to necessary modifications of statutory sections governing judicial review of administrative agencies.

Upon review of these statutory changes, it was considered whether it would not be more effective to repeal most of such statutory changes and effectuate a change to the Administrative Procedures Act in its place. However, it was concluded that such action would be beyond the intent of this bill and should be considered, if desired, at a later date.

7. Appropriation. The establishment of the intermediate appellate court will require appropriation of funds by the legislature. However, the amount sought for appropriation is being left in blank at this time inasmuch as the budget submitted by the judiciary has included expected cost for the establishment of such court and its operation for the next biennium.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 92, H.D. 1, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 92, H.D. 1, 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 Kuroda, Mizuguchi, Takitani and Carroll.

SCRep. 700 Judiciary on H.B. No. 99

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article VI, to which conformance is addressed by this bill as follows:

"The supreme court shall have the power to reprimand, discipline, suspend with or without salary, retire or remove from office any justice or judge for misconduct or disability, as provided by rules adopted by the supreme court."

H.B. No. 99, H.D. 1 conforms to the language of Article VI and gives statutory recognition to the supreme court's constitutional power to reprimand, discipline, suspend, retire and remove justices and judges for misconduct or disability. It requires the supreme court to create a commission on judicial discipline to aid the supreme court in this task.

Your Committee amended the bill to create the Commission on Judicial Discipline and Retirement. This Commission is constitutionally mandated and your Committee felt statutory recognition would facilitate its urgent establishment.

The Commission would have fifteen members appointed by the Supreme Court, broadly representative of the community, and would investigate and conduct hearings concerning allegations of misconduct or disability and make recommendations to the Supreme Court.

H.B. No. 99, H.D. 1, S.D. 1 also repeals Chapter 610, Hawaii Revised Statutes, which governs the subject matter of retirement and removal of justices and judges, as such chapter is in conflict with Article VI.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 99, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 99, 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 Kuroda, Takitani, Carroll and Saiki.

SCRep. 701 Health on H.B. No. 160

The purpose of this bill is to lower the required initial trust corpus minimum reserve used to secure enforcement of the interindemnity agreement as set forth in Chapter 435E, Hawaii Revised Statutes, from \$5,000,000 to \$3,000,000.

Testimony in favor was received by various medical groups, but one in particular worth citing is the one by the Wyatt Company, an actuary and employee benefit group.

Their findings concluded that a fund of a minimum reserve of \$3,000,000 and a contribution of \$20,000 per doctor from the number of doctors presently contributing to the fund would adequately cover the present average medical malpractice claim per year in Hawaii.

The report also noted the previous amount of \$5,000,000 established by the Legislature was based on a California law without regard to the differences between California and Hawaii. These differences involved California's medical malpractice average claim which is 3.6 times that of Hawaii's and the frequency of claims which is 1.2 times more than Hawaii's per 100 doctors. It is also important to note that California has 32 times more doctors than Hawaii.

Your Committee found that the trust fund has not been operative due to the inability to secure the minimum amount required. In light of the Wyatt report, we find that lowering the minimum required would not jeopardize the concerns and needs of the people in the State of Hawaii, and more importantly, will activate the trust fund to further provide safeguards for both the physicians and concerns of the people in the State of Hawaii.

This bill also allows the Department of Regulatory Agencies to investigate and to verify the minimum requirement of the fund in order to insure safeguards to patients and citizens

in this State.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 160, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senators Takitani and Yee.

SCRep. 702 Health on H.B. No. 287

The purpose of this bill is to statutorily increase certain fees charged by the department of health for the issuance of a certified copy of a vital record and for the search of files and records.

The department of health noted that the last increase in fees was in 1964, and the amount of work needed for the services required in some instances is lengthy and time consuming. In addition, salaries and other current expenses have increased since then, and the present fees do not cover the costs for the services performed.

Your Committee finds that the increase in fees would defray costs generated by these services, and would not overburden or have any consequential effect on the public when they request these services.

Your Committee has amended the bill to allow the department to establish reasonable fees in accordance with the Administrative Procedure Act when changes are necessary to cover the costs of processing. It is not the intent of your Committee to allow the Department to establish onerous or unreasonable fees, nor to utilize this new authority to generate a profit. Rather, these amendments will allow the Department of Health to establish fees adequate enough to cover its expenses without the necessity of requesting a statutory amendment. The bill has been amended accordingly.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 287, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 287, 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 Takitani and Yee.

SCRep. 703 Health on H.B. No. 288

The purpose of this bill is to change the requirement for procuring a new birth certificate following a sex change operation. At present, an affidavit by a physician who performed the operation is required. The bill would allow issuance of a birth certificate upon receipt of an affidavit by a physician who has examined the person after the operation. The sex designation on such a person's birth record can then be changed.

The Department of Health is involved in a suit by an individual who has been unable to obtain an affidavit from a physician in Hawaii that such an operation was performed and that the individual has female sex organs. The case is still pending, but the Department agreed to seek simplification in the existing law.

The Committee recognizes the legal and social need for such simplifications.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 288 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 Yee.

SCRep. 704 Health on H.B. No. 1127

The purpose of this bill is to authorize state-operated hospitals to accept credit cards for charges.

Your Committee recognizes that credit card transactions are currently a significant source of bill collection, and that the Department of Health is in favor of the usage of credit cards for bill collections in state hospitals.

The use of credit card charges is routinely being accepted by the University of Hawaii at the present time, and authorization has been extended to the judiciary branch for the same.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1127, 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 Takitani and Yee.

SCRep. 705 Health on H.B. No. 1658

The purpose of this bill is to update the list of Controlled Substances as required by Section 329-11(e), Hawaii Revised Statutes, to set up a system for the Department of Health to publicly announce and make available to the public copies of any changes to the schedules, to add a new subsection regarding the preparation of prescriptions, and to add provisions to the Penal Code to assist investigators in properly performing their duties. The House draft brings Hawaii's Controlled Substances Schedules into conformity with the Federal Schedules.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1658, 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 Yee.

SCRep. 706 Health on H.B. No. 1674

The purpose of this bill is to strengthen safety measures in the use of drugs by adding a more stringent labelling requirement. This requirement calls for the name, strength, and quantity of the drug issued, and specific directions for use to be noted on the label, while eliminating the use of the phrase "take as directed".

Your Committee concurs with the Department of Health testimony which cites the growing elderly population, among whom there is increasing use of drugs for various disorders (heart disease, diabetes, high blood pressure, arthritis, etc.). Since many drugs are similar in size, shape and color, it is very easy to confuse them and this confusion is further compounded when simply "take as directed" is noted on the label.

Your Committee feels that this specific labelling requirement is a definitive safety measure and can facilitate the determination of the drug in cases of accidental or intentional overdose. We also recognize that incomplete labelling is a national problem and that this labelling measure can help to ensure increased drug safety among the citizens of our State.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1674 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senators Takitani and Yee.

SCRep. 707 Judiciary on H.B. No. 1496

The purpose of this bill is to bring manufacturers, materialmen and others involved in improvements to real property into the ambit of protection afforded by section 657-8 in placing a statute of limitations upon action to recover damages for injury to property or person arising out of improvement to real property.

A very comprehensive explanation of H.B. No. 1496, H.D. 1 was provided your Committee by Wesley W. Ichida, Esq. and as his presentation is difficult to improve upon, we quote extensively from that submittal:

"The predecessor statute to section 657-8 was originally enacted in 1967. It provided protection to "any registered and/or duly licensed person performing or furnishing professional or licensed services in the design, planning, supervision, or observation of construction of the improvement to real property," but did not protect owners, lessees, manufacturers and materialmen. In a 1973 decision, the State Supreme Court struck down the 1967 statute as a violation of the Equal Protection Clauses of the state and federal constitution. Fujioka v. Kam, 55 Hawaii 7, 514 P.2d 568 (1973). Specifically, it held that the legislature's failure to include owners among those protected by the statute was an improper discrimination invalidating the provision.

In 1974, the legislature amended the 1967 statute to meet what was perceived to be the Court's objections by adding the owner and others with an interest in the real property to the class of protected persons. The amended provision did not, however, include manufacturers and materialmen. As explained in the Committee reports, the legislature believed that manufacturers and materialmen reasonably constituted a separate and distinguishable class and, thus, did not have to be included within the protection of the statute.

We think the 1974 legislature's decision to exclude manufacturers and materialmen from the ambit of the statute was sound. However, in mainland cases where statutes similar to Hawaii's have recently been tested, there have been a number of decisions holding such an exclusion to be a violation of equal protection. Though these cases are a minority of the reported decisions, it does raise a question as to the validity of the present law.

To resolve the constitutional doubts concerning section 657-8, H.B. No. 1496, H.D. 1 would amend the statute to broaden its scope to include manufacturers, materialmen and others involved in improvements to real property. The intent is to have the statute apply to all persons who can, by a sensible reading of the words, be brought within its ambit. The only persons excluded would be owners in suits based on their negligent conduct in the repair or maintenance of the improvement and surveyors in suits based on their own errors in boundary surveys. These exclusions exist in the present law and are merely carried forward in the amendment.

H.B. No. 1496, H.D. 1 also clears up some of the problems the courts have had in interpreting the present statute by providing a definition of the terms "improvement" and "date of completion." Further, to clarify when the limitations period begins to run, it is provided that the filing of an affidavit of publication and notice of completion with the Circuit Court shall be prima facie evidence of the date of completion. This is, in essence, the policy Circuit Court Judge Arthur S. K. Fong has been following in cases that have come before him and, thus, merely codifies present practice. Lastly, H.B. No. 1496, H.D. 1 liberalizes the present law by extending the limitations period an additional period of time in situations where a person is injured in the fifth or sixth year of the statutory period. Thus, if someone were injured on the last day of the six-year period, he would be granted an additional two years to file his action."

Your Committee has amended H.B. No. 1496, H.D. 1 to correct typographical errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1496, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1496, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Carroll.

SCRep. 708 Intergovernmental Relations on H.B. No. 866

The purpose of this bill is to remove the six per cent ceiling on interest paid on revenue bonds of the county.

Under present law, revenue bonds sold by county government cannot have an interest rate exceeding six per cent per year. In today's market, such a limitation makes it virtually impossible to sell such bonds for any purpose.

Your Committee agrees that the deletion of the six per cent statutory limit on the maximum amount of interest will serve to put the counties in a better position to sell their bonds.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 866 and recommends it pass Second Reading and be referred to your Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie, O'Connor and Yee.

SCRep. 709 Intergovernmental Relations on H.B. No. 867

The purpose of this bill is to remove the requirement that an appeal of a decision of the Liquor Commission to the Circuit Court to be de novo.

Under Section 281-92, Hawaii Revised Statutes, an alcoholic beverage licensee who has been assessed a penalty, suspension or revocation of his license by the Liquor Commission may appeal the decision to the Circuit Court and be tried de novo, i.e., tried anew with the findings of fact and evidence brought before the Commission of no force and effect.

This requirement in the existing law causes duplicative hearings, is time consuming and placed an unnecessary burden on witnesses and the court system.

Your Committee feels that Chapter 91, Hawaii Revised Statutes, governing administrative appeals to the Circuit Court already provides the licensee receiving an adverse decision with adequate safeguards and protection without the necessity for a trial de novo.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 867 and recommends it pass Second Reading and be referred to your Committee on Judiciary.

Signed by all members of the Committee except Senators Abercrombie, O'Connor and Yee.

SCRep. 710 Intergovernmental Relations on H.B. No. 1104

The purpose of this bill is to change existing Hawaii law relating to police escorts for funerals.

Pursuant to Hawaii Revised Statutes 52-16, police officers are currently required to escort funerals while on duty. Testimony from the State of Hawaii Organization of Police Officers indicated such assignments are mandatory and that in 1978 escorts were furnished for 1,368 funerals statewide. This involved the use of 3,254 officers and a total of 3,267 man hours.

Your Committee believes that funeral escorts should continue to be provided as a public service to the community, but with the growing concern over the rising crime rate, only off-duty officers should be assigned, and they should be compensated in accordance with the prevailing departmental special duty rate. Your Committee concurs with the intent that all officers furnishing such services should be assigned on a rotating basis.

Your Committee believes that the bill will promote more effective utilization of police man hours by releasing officers from escort duty and allowing them to pursue their normal law enforcement responsibilities on an uninterrupted basis.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 1104, H.D. 1, and recommends it pass Second Reading and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senators Abercrombie, Carroll and Yee.

SCRep. 711 Intergovernmental Relations on H.B. No. 1557

The purpose of this bill is to expand and clarify the scope of the County Committees on the Status of Women, thereby allowing such committees to carry out the appropriate duties and responsibilities as deemed necessary by the counties.

Your Committee has heard testimony that current law limits the County Committees to mere information gathering for the State Commission on the Status of Women. Over the years since the original statute was passed, County Committees have taken on other duties, such as: the holding of conferences and workshops that are of vital concern to women; the publishing and distribution of brochures which are particularly useful to women; and advising and responding to requests for information from women and elected officials within the community.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of H.B. No. 1557, 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 Abercrombie, O'Connor and Yee.

SCRep. 712 (Majority) Health on H.B. No. 1401

The purpose of this bill is to set up requirements for the retention and destruction of medical records.

Testimony was received indicating that medical research has in the past relied on medical records for genetic and epidemiological research purposes, as well as for tracing the long range effects of drugs. Medical records have also been valuable resources upon which the medical profession is able to draw on to define illnesses or health problems, determine and document disease/health trends, and discover possible associations.

Presently, there is no prescribed period to ensure that medical records are kept for future usage. Your Committee finds that it is important for the health and welfare of the people in the State to provide a time frame for the retention of medical records.

Your Committee has amended the bill so that medical records shall be retained in the

original or reproduced form for ten generations in order to ensure that the necessary and pertinent information for medical research purposes be kept intact. Your Committee feels that the retention of this information would facilitate both health care and research needs.

Testimony cited the cost of reproducing one record to be approximately \$1.00 per record. Your Committee does not feel this cost to be prohibitive. Your Committee received no conclusive testimony indicating the cost factors involved in the storage and maintenance of records to be so overwhelmingly significant as to outweigh the medical benefits of retaining such records.

Your Committee received testimony stating that radiology film should not be included in the definition of "medical record" since the film is considered to be merely a tracing or specimen that need not be subjected to the ten generation retention requirement, although standard practice is to retain the film for five to seven years. The radiology report, however, represents the interpretation of the film procedure, and thus should remain in the definition. The bill has been amended accordingly.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1401, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1401, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Takitani and Yee.
Senator Saiki did not concur.

SCRep. 713 Judiciary on H.B. No. 93

The purpose of this bill is to further define the jurisdiction of the small claims court, and to increase the jurisdictional limit of that court.

H.B. No. 93, S.D. 1 has been amended to reduce the jurisdictional limit of the court from \$1,000 to \$600. While the old \$300 limit has been made obsolete by inflation, your Committee felt the increase to \$600 was an adequate raise at the present time.

Testimony was heard from Mr. Lester Cingcade, the Administrative Director of the Courts, in support of the bill. Mr. Cingcade felt that it was appropriate to expand the jurisdiction of the small claims court to provide for monetary and equitable relief subject to certain limitations and to prohibit all class actions in this court. These provisions would ensure that the small claims court remain available as a tribunal for trial matters too small to merit the expense of formal proceedings.

Accordingly, your Committee has amended H.B. No. 93, S.D. 1 to permit the award of monetary relief exclusive of punitive damages. H.B. No. 93, S.D. 1 has been further amended to clarify the court's jurisdiction with regard to equitable relief by limiting the award of such relief to circumstances involving landlord-tenant disputes subject to the \$600 jurisdictional limit.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 93, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 93, S.D. 2.

Signed by all members of the Committee.

SCRep. 714 Transportation on H.B. No. 130

The purpose of this bill is to make an appropriation for the vehicle emissions inspection program of the Department of Transportation.

In order to assess both the energy efficiency of automobiles and the level of noxious, environmentally harmful emissions, the Department of Transportation and the Department of Health jointly sponsored a three-year voluntary infrared emission testing pilot program as a diagnostic procedure to measure vehicle carbon monoxide (CO) and hydrocarbon (HC) pollutant levels starting in 1975. Seven thousand vehicles were tested under this program.

Your Committee agrees that the benefits of such a permanent program would include reduced fuel consumption, reduced air pollution, mass participation in energy conservation, and the stimulation of the automobile repair and parts industry.

Your Committee approves the appropriation of \$35,000 to provide funding for a more comprehensive study of the Department of Transportation's infrared vehicle emissions inspection program.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 130, 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. 715 Transportation on H.B. No. 616

The purpose of this bill is to delete certain provisions relating to the highway supplies and equipment account previously utilized by the Land Transportation Facilities Division.

The Department of Transportation testified that this division no longer uses or is required to maintain a Highway Supplies and Equipment Account.

Your Committee finds that the Highway Supplies and Equipment Account was created by Act 48, SLH 1943. Under this law, all monies received from the United States Government for materials and supplies used or for the use or rental of equipment owned by the Department of Transportation on federal-aid highway projects were deposited into this fund and expended for purchase of materials, supplies, and equipment used for highway projects. Upon creation of the State highway fund in 1951, all monies received by the department from the Federal Highway Administration as reimbursement of federal share of costs incurred on federal-aid highway projects are treated as revenues and deposited into the federal-aid account in the state highway fund.

Your Committee further finds that Section 264-27 is obsolete.

Your Committee has amended this bill by providing for a new Section 2 to reflect proper bill format. Section 2 of the bill was renumbered to Section 3.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 616, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 616, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 716 Transportation on H.B. No. 739

The purpose of this bill is to give legislative approval to the reimbursable clearing account method used by the Department of Transportation.

Your Committee finds that presently the Land Transportation Facilities division of the Department of Transportation operates three major reimbursable clearing accounts. These accounts are Payable Clearing, Employee Benefit Clearing, and Construction Administration. The clearing account method has been instituted and utilized by the department because a large part of this division's expenditures is project funded. This involved the funding of approximately 600 employees, who work on one or more projects in a pay period and other related costs. If the Department of Transportation was to wait for the semi-monthly timesheets to determine the exact fund and appropriation accounts out of which these employees are to be paid, it would be virtually impossible to pay these employees on schedule. In addition, without a clearing account, it would be extremely difficult or impossible to allocate indirect costs to projects.

The Department of Transportation testified that the reimbursable clearing account method has been accepted by the State Comptroller as an acceptable accounting method to redistribute costs.

Your Committee has amended this bill by providing for a new Section 2 to reflect proper bill format and renumbering Section 2 to read Section 3.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 739, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 739, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 717 Transportation on H.B. No. 740

The purpose of this bill is to repeal provisions of the statute governing expenditure of funds in the state highway fund that are no longer required, to clarify portions of

the statute that are ambiguous, and to repeal the provision that authorizes the Department of Transportation to expend funds out of the state highway fund to support the operations of the interdepartmental transportation control commission and programs.

Your Committee finds that the statutory authority governing expenditures out of the state highway fund is contained in Section 248-9, providing that moneys in the state highway fund shall be expended by the Department of Transportation for highway purposes in the following priority: (1) Payment of interest on the principal of county bonds issued for highway purposes prior to January 1, 1945. (2) Payment of interest on the principal of highway revenue bonds issued pursuant to Act 249, SLH 1955. (3) Design, construction, reconstruction, repair and maintenance, engineering, acquisition of rights of way for federal aid and other public highways included in the state highway system, subject to a provision that expenditures for new construction shall be apportioned for highways in each county in proportion to the amount of fuel tax collected in that county to the total collected for all the counties.

Your Committee finds that (1) Payment of interest on the principal of county bonds issued for highway purposes prior to January 1, 1945, and (2) Payment of interest on the principal of highway revenue bonds issued pursuant to Act 249, SLH 1955, are no longer required since all of the county bonds have matured and the highway revenue bonds were refunded in 1967 with the proceeds from general obligation refunding bonds issued in 1963.

Your Committee further finds that the remainder of the statute governing the state highway fund was amended many times and because of these amendments, the language of certain parts of this section is ambiguous and requires clarification. The apportionment provisions for new construction is no longer necessary since Act 75, SLH 1961, provides that all capital improvement projects require authorization by the legislature and the governor. It was further, noted by the Director of Transportation, that this section is unnecessary since expenditures from the fund require appropriations or authorizations (Chapter 37, HRS) from the legislature.

Your Committee further finds that Section 248-11 is no longer required since the interdepartmental transportation control commission was abolished by Act 179, SLH 1975.

Your Committee has amended this bill by providing for a new Section 3 to reflect proper bill format. Section 3 of the bill was renumbered to Section 4. Your Committee also corrected several errors which were made in typing the bill.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 740, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 740, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 718 Transportation on H.B. No. 742

The purpose of this bill is to clarify present law by allowing licensed operators, eighteen years or older, to drive motor vehicles of 10,000 pounds or less gross vehicle weight rating for compensation, and by requiring operators of larger vehicles for compensation to be at least twenty-one years old unless the operator is enrolled in a driver training program approved by the Director of Transportation, in which case the operator may be between the ages of 18 and 21.

Your Committee finds that the minimum age requirements for operation of motor vehicles for compensation is presently unclear due to the conflicting requirements of Section 286-102(d)(1), Hawaii Revised Statutes and P.U.C. General Order Number 2. Section 286-102(d)(1) sets the minimum age to drive for compensation at 18 while P.U.C. General Order Number 2 sets the minimum age at 21 for taxi drivers and those operating vehicles in commerce of more than 10,000 pounds.

Your Committee finds that this bill will clarify the State age requirement for all types of motor vehicle operation for compensation and will provide the desired safety precautions for vehicles weighing more than 10,000 pounds. Furthermore, your Committee finds that this bill is in accordance with federal age requirements which govern drivers in interstate commerce.

Your Committee further finds that by providing for the exception for those enrolled in an approved driver training program, this bill will provide increased employment opportunities for our young people.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 742, 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.

SCRep. 719 Transportation on H.B. No. 1200

The purpose of this bill is to continue the exemption and exclusion from Hawaii general excise and use taxes for activities in and income derived from the conduct of interstate and foreign business, to the extent such activities and income were treated as exempt by the State of Hawaii on April 1, 1978. This bill would continue the tax status of interstate business as it existed prior to the decisions of the United States Supreme Court in Department of Revenue of Washington v. Association of Washington Stevedoring Companies, 55 L.Ed.2d. 682 (1978); Complete Auto Transit, Inc. v. Brady, 430 U.S. 274 (1977); and Michelin Tire Corporation v. Wages, 423 U.S. 276 (1976).

Among the activities for which an exclusion from taxation is continued by the bill are those listed in Tax Information Release Number 56-78, issued June 15, 1978 by the State of Hawaii, Department of Taxation, and those treated as exempt or excluded in opinions of the Attorney General of Hawaii. See, e.g., Hawaii Attorney General Opinion No. 1720, August 22, 1939, Hawaii Attorney General Opinion No. 2253, June 3, 1943.

The decision of the United States Supreme Court in Department of Revenue of Washington v. Association of Washington Stevedoring Companies, *supra*, overruled the historic exclusion from taxation under constitutional principles that had been enjoyed by interstate business for over forty years.

Although your Committee does not question the correctness of the constitutional principles set forth in the Washington Stevedoring decision, it believes that application of these new principles in the State of Hawaii would be disruptive to the economy and welfare of the State. Specifically, these new principles and the Washington Stevedoring decision do not take into account the unique geographic location of the State of Hawaii and the importance to the State of maintaining a cost-effective, ocean-going and air transportation lifeline to the State free from additional taxation. The result of any taxation under the new principles would be an increase to the cost of goods that would be paid by consumers and businesses in Hawaii. Based on these considerations, the State of Hawaii, Department of Taxation, in Tax Information Release No. 58-78, issued July 21, 1978, announced its decision not to apply new taxes in Hawaii under the Washington Stevedoring decision. This bill would confirm and continue the taxing policies established under Tax Information Release No. 58-78.

The bill also contains clarifying language requested by the Department of Taxation to confirm that activities that were taxable prior to adoption of the new constitutional principles that were controlling in the Washington Stevedoring decision, such as but not limited to activities held taxable in HC&D Moving & Storage Co. v. Yamane, 48 Haw. 486, 405 P.2d 382 (1965), would not be exempted from tax under the bill.

Such clarification is not intended to affect the tax status of activities listed in the above Tax Information Release and Attorney General's Opinion.

Your Committee made technical amendments to Section 3 of the bill.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1200, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1200, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 720 Transportation on H.B. No. 1473

The purpose of this bill is to increase the annual grant to the Hawaii Wing, Civil Air Patrol, from \$75,000 to \$100,000 to carry on the operations and defray the expenses of the wing; provided that not less than \$3,000 be allocated to each Civil Air Patrol unit in the State that meets minimum requirements established by the wing headquarters.

Your Committee finds that under the present statute, a grant of \$75,000 is awarded annually to the Hawaii Wing, Civil Air Patrol with provisions that not less than \$3,000 be allocated to each Civil Air Patrol unit outside the City and County of Honolulu. Presently, units on the neighbor islands are receiving the full \$3,000 while those units on Oahu

are receiving less. Your Committee feels that this practice is inequitable and agrees that each Civil Air Patrol unit should be funded equally, without a minimum requirement as established by the wing headquarters. Accordingly, your Committee has amended the bill by deleting the provision that each unit must meet the minimum requirements established by the wing headquarters.

In light of the Hawaii Wing's receipt of an annual grant from airport revenues, section 2 of this bill has been amended to require the Department of Transportation to carry out findings and recommendations to be submitted to the director of finance for further submission to the Legislature. It further requires when feasible that these findings and recommendations be included in the department's program and budget.

This bill has been further amended by adding provisions of general conditions and review before money can be granted to the Civil Air Patrol, and to provide for allotment of funds, and monitoring and evaluating of grants of funds.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1473, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1473, 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 Soares.

SCRep. 721 Transportation on H.B. No. 1645

The purpose of this bill is to extend to five years the existing one year limitation on the State's right to sue for deficiencies in the disposal of abandoned vessels, to authorize the Department of Transportation to assess and to collect all expenses incurred incidental to taking custody of and disposing of an abandoned vessel, and to clarify provisions relating to the disposition of proceeds derived from the sale of abandoned vessels.

Your Committee finds that the existing one-year limitation on the State's right to claim for any deficiency is inadequate. The Department of Transportation testified that the necessary procedures cannot be completed in one year and that the owner-debtor cannot always be located in that time.

Your Committee has amended this bill to allow the owner five years after the sale of the vessel to file a claim for the balance of the proceeds with the Department of Budget and Finance. Your Committee feels that the owner should be entitled to the same period of time to make his claim to the State. The Department of Transportation testified that they had no objection to this amendment.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1645, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1645, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 722 Transportation on H.B. No. 1646

The purpose of this bill is to broaden driver license exemptions to include persons holding valid licenses from the District of Columbia and the Commonwealth of Puerto Rico.

Your Committee received testimony that stated that the District of Columbia and the Commonwealth of Puerto Rico required driver license programs which conform to Federal highway safety program regulations.

Your Committee finds that this bill will provide guidance to driver license examiners and end the present discrimination against U. S. citizens caused by the omission of certain jurisdictions in the present statutes.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1646, 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.

SCRep. 723 Economic Development on H.B. No. 137

The purpose of this bill is to stimulate Hawaii's fishing industry by expanding the large fishing vessel loan program.

In testimony presented on February 15, 1979, Mr. Hideto Kono, director of the department of planning and economic development (DPED), indicated that the establishment of a modern long-range fishing fleet in Hawaii was essential to the growth of our islands' commercial fishing industry.

The future of the industry lies in the development of the vast fishing resources in the area north of Midway, the Northwestern Hawaiian chain, as well as the Western and Central Pacific areas. These fishing grounds would provide the industry with the opportunity for considerable expansion of the tuna catch. The expansion, in turn, would mean more jobs both on the vessels and in the shore processing facilities and possibly the development of support industries such as a baitfish industry. It would also mean more fish for local consumption and export, thereby strengthening our economic base. To reap the benefits of the tuna resources in these areas, large long-range vessels are needed. The average cost of one of these vessels, however, is approximately \$500,000.

As attested by Mr. Kono, the lack of capital has been one of the major impediments in the establishment of a modern long-range fishing fleet in Hawaii. Since April, 1978, there have been 14 requests for loans from tuna fishermen which were not processed due to lack of funds. The additional funds to the large fishing vessel loan program, thus, would allow DPED to meet at least a portion of the requests and thereby assist our growing industry. It should be noted that there is a need for immediate action on the matter due to the competition from west coast and foreign concerns who are also cognizant of the potential fishing resources in the area.

Your Committee has amended this bill by reducing the appropriation to \$500,000.

Your Committee has further amended the bill by specifying that the fishing vessel loan program referred to in this bill is the large fishing vessel loan program and not the small fishing vessel loan program which is a separate revolving account. Other nonsubstantive language changes were made to the bill.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 137, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 137, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 724 Economic Development on H.B. No. 370

The purpose of this bill is to encourage the production of non-fossil fuel generated electricity by providing tax incentives and to establish a mechanism to administer the tax incentives.

Your Committee finds that Hawaii's extreme dependence on imported petroleum for energy can be reduced by developing locally available, non-polluting, renewable sources of energy including geothermal, ocean thermal, wind, biomass, and solar energy. This bill provides a monthly tax credit for electrical producers utilizing alternate energy rather than petroleum. This credit may be charged against an alternate energy producer's income or excise tax liability and is determined by multiplying \$0.003/kwh times the ratio of the most recent consumer price index for all urban consumers in Honolulu (CPIUH) divided by the CPIUH applicable for the month an additional alternate energy producer is classified.

Your Committee has amended the bill by changing the definition of "additional alternate energy" in section 2 of the bill to read as follows:

"(1) "Additional alternate energy" means alternate energy expressed in kilowatt hours produced in a calendar year which is sold or resold by the utility to the public."

Your Committee finds that by deleting references to historical production of alternate energy, the bill would permit the application of the proposed tax credit to current production levels and not penalize the leaders in the non-fossil fuel industry who have assumed the risks and pioneered the developmental efforts to date.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 370, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 370, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 725 Economic Development on H.B. No. 1652

The purpose of this bill is to provide funds for the Aquaculture Loan Program.

The bill provides an appropriation of \$500,000 in each fiscal year of the biennium to meet the recent increase in loan applications. The additional funds would not only help meet some of these loan demands but would also encourage the participation of the State's private lenders in the development of aquaculture.

According to Mr. Hideto Kono of the department of planning and economic development, the credit financing subcommittee of the Hawaii Aquaculture Planning Program Advisory Committee has gone on record as endorsing an increase in the aquaculture revolving loan fund.

Your Committee agrees that there is a need to financially assist this new expanding industry that promises to play a significant role in our State's economy.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1652 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. 726 Economic Development on H.B. No. 1654

The purpose of this bill is to clarify the application of payments under the Aquaculture Loan Program.

The existing law is contradictory in that section 219-5(7), Hawaii Revised Statutes, requires that all moneys collected are deposited in the aquaculture loan revolving fund, while section 219-4, Hawaii Revised Statutes, requires that interest and fees are deposited into the reserve fund and payments received on account of principal be deposited into the revolving fund.

This bill will provide for the depositing of fees and interest into the reserve fund to the extent needed to carry on the operations of the loan program with any surplus transferred to the revolving fund at the discretion of the department and the depositing of payments on account of principal into the revolving fund.

Your Committee has amended the bill to correct minor typographical errors in the bill.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1654, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1654, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 727 Economic Development on H.B. No. 1680

The purpose of this bill is to provide for the formal organization and operation of the natural energy laboratory of Hawaii, to designate the members of its governing board, to delineate the powers and duties of the board, and to provide for the operation of the Natural Energy Laboratory of Hawaii as a special funded activity.

Act 236, Session Laws of Hawaii 1974, provided for the establishment of the Natural Energy Laboratory of Hawaii as a research facility on state-owned land makai of the Ke-ahole Airport on the Big Island. Act 236 also provided that the Natural Energy Laboratory of Hawaii be under the direction and management of a consortium made up of state and county entities and such foundations and enterprises as may be willing to provide funds, facilities, or research for the laboratory.

Following the enactment of Act 236, funds from various sources have been invested, facilities are being developed, and demonstration projects have been initiated under the direction and management of a consortium consisting of representatives of the county of Hawaii, the office of the marine affairs coordinator, the University of Hawaii, the department of planning and economic development, and the department of land and natural resources.

Your Committee finds that Hawaii has the potential of becoming the international center for natural energy investigations utilizing the Ke-ahole Point site. Thus, providing for the formal organization and operation of the Natural Energy Laboratory of Hawaii as a

special funded activity is reasonable and timely.

Your Committee has made technical amendments to the bill and amended the bill by renumbering section 4 to section 5 and adding a new section 4 appropriating \$1 for the purposes of this bill to conform the bill to the title of the bill which makes an appropriation.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1680, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1680, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 728 Government Operations and Efficiency on H.B. No. 281

The purpose of this bill is to amend Section 103-32, Hawaii Revised Statutes, relating to the bidding and awarding of public contracts by adding a new provision authorizing the contracting officer, in cases where there is only one bidder and whose bid exceeds available funds, to negotiate with the bidder to reduce the price.

Under existing law, the Department of Accounting and General Services may only negotiate with the lowest responsible bidder to reduce the scope of work. Under this bill, if only one bid is received, a contracting officer may in his discretion negotiate with such bidder to reduce the price and award the contract at the reduced price.

However, your Committee finds that by allowing direct negotiations only in cases where there is only one bidder and whose bids exceed available funds, the State could be vulnerable to the substitution of inferior materials or workmanship at the option of such bidder. In order to obtain the most favorable contract for the State, it would be in its best interest to allow competitive negotiations between the officer and the second lowest responsible bidder when negotiations with the lowest bidder fail to produce a price within the limits of available funding. Your Committee has amended the bill to provide accordingly.

The purpose of the amendment to the bill is to enable the contracting officer to negotiate downward with the two lowest responsible bidders in cases where the lowest bid submitted exceeds the funds available to the State.

Your Committee on Government Operations and Efficiency is in accord with the intent and purpose of H.B. No. 281, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 281, 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 Hara.

SCRep. 729 Housing and Hawaiian Homes on H.B. No. 455

The purpose of this bill is to amend Section 214 of the Hawaiian Homes Commission Act, 1920, as amended, to (1) increase the amount that the Department of Hawaiian Homes is authorized to guarantee on loans, from \$18 million to \$21 million, to provide for projected requirements for its housing and agricultural programs for the biennium 1979-81; and (2) include loans to lessees under Section 215 of the Act up to a maximum of \$35,000 per loan, and other loans made to lessees by a government agency or private lending institution under this guarantee provision.

Your Committee believes that the present loan guarantee ceiling of \$18 million is inadequate for the biennium 1979-81 and that the \$3 million increase to the guarantee ceiling will enable the Department of Hawaiian Homes to meet its projected requirements.

Your Committee has amended the bill to correct a technical error.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 455, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 455, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 730 Housing and Hawaiian Homes on H.B. No. 1531

The purpose of this bill is to provide \$100,000 to Alu Like, Inc., as State matching funds with federal financial assistance for Native American Programs to meet the needs of native

Hawaiians to attain economic and social self-sufficiency under the reauthorized federal Native American Programs Act of 1978.

In hearing the Senate companion measure, your Committee received testimony in favor of the bill from the Department of Hawaiian Home Lands, and Alu Like, Inc.

Your Committee is in accord with the intent and purpose of H.B. No. 1531, 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. 731 Housing and Hawaiian Homes on H.B. No. 1686

The purpose of this bill is to authorize the Hawaii Housing Authority (HHA) to raise funds from private investors through the sale of tax-exempt revenue bonds, and to make these funds available at affordable interest rates through mortgage lenders to persons and families of lower and moderate income to enable them to purchase a new or existing home or to convert their residential leasehold property to fee simple. The funds will be allocated by the HHA for use in four housing programs as follows:

1. The making of loans to mortgage lenders who will in turn make loans to persons of lower and moderate income (eligible loans);
2. The purchase of existing loans or mortgages from mortgage lenders who will then make eligible loans;
3. The making of advance commitments to purchase eligible loans from mortgage lenders;
4. The funding of eligible loans to be made through mortgage lenders.

Similar programs are operating through over forty other State and municipal housing agencies across the nation. The Constitutional amendment ratified on November 7, 1978, allows Hawaii to take advantage of the favorable federal tax treatment on the investment income of such revenue bond issuances. The market for such offerings is envisioned as being primarily comprised of out-of-state investors who have previously not participated in providing mortgage funding for residential development in Hawaii. Thus, this program effectively allows us to import new investment capital for housing at below market rates. Additionally, these bond issuances will not affect the State's power to issue general obligation bonds.

Your Committee finds that a major cause of the continuing housing problem in Hawaii is the lack of long term financing at affordable interest rates which hinders the purchase of residences particularly for first-time buyers, younger families, persons and families of lower and moderate income, and the elderly. Your Committee further finds that the concentration of ownership of fee simple title to significant areas of land in the hands of estates, trusts and large private landowners has contributed to the serious shortage of single family residential fee simple property at reasonable prices. The provision of funds for the purchase of the fee simple title from a lessor by a lessee is consistent with the policy of this State to disperse ownership of fee simple title in single family residential property to as many people as possible.

Your Committee recognizes that one of the primary determinants of homeownership is the potential homeowner's ability to qualify for a mortgage loan based on the size of the monthly mortgage payment. Since the monthly mortgage payment is determined by the principal amount, the interest rate, and the length of the loan, it is important that these factors be addressed in offering home mortgage loans that are affordable to potential owner-occupant homeowners.

Your Committee was informed that the "average" loan made by one of Hawaii's larger mortgage lenders in 1978 was approximately \$60,000. At the present market rate and term, the annual qualifying income would be approximately \$28,000. It has been estimated that loans made under this bill could be made at approximately two percent below the market rate. Thus, under this bill, a person or family making almost \$5,000 less per year would qualify for the same principal loan amount.

In a public hearing on the Senate companion measure to this bill, testimony was presented to your Committee by the Hawaii Housing Authority and all the trade associations representing the major private lending institutions and the construction industry in the State. Among those who testified were representatives of the Hawaii League of Savings Associations, the Mortgage Bankers Association, the Hawaii Bankers Association, the Home Builders

Association of Hawaii, the Hawaii Building and Construction Trades Council, and the Construction Industry Legislative Organization. The groups which appeared on behalf of the private lending institutions and the construction industry strongly emphasized their support of this measure and the importance of providing affordable mortgage funds to State residents.

It is your Committee's intent to provide the implementation of these loan programs through local financial institutions rather than to require the State government to model or muddle the private sector's activities. The representatives of the private lending community are fully cognizant of the importance of their role in implementing these loan programs, and of the necessity for close cooperation between the government sector and the private sector. They have expressed their strong desire to work actively in formulating the significant aspects of the programs.

Your Committee has made the following amendments to H.B. No. 1686, H.D. 2:

1. The Findings and purpose. section, as well as other sections, have been amended for style, clarity and brevity in conformity with the Hawaii Legislative Drafting Manual.
2. A new section designating the Act as the Housing Loan and Mortgage Act has been added. In consonance with the appellative acronyms accorded to the other secondary mortgage market institutions, the Federal National Mortgage Association (FNMA) and the Government National Mortgage Association (GNMA), respectively and affectionately addressed as Fannie Mae and Ginnie Mae, your Committee recognizes the immediate appeal these entity identities have fostered, and deems securities issued under this Act as Hula Mae bonds.
3. The existing sections in Chapter 356 have been designated as Part I, and the housing loan programs and revenue bonds under this bill have been designated as Part II of Chapter 356, to codify and separate the general provisions of Part I from the differing functional and program provisions of Part II.

The four loan functions in this bill have been designated as separate programs, rather than addressing all four as a "program" to stress the independence of the application of these specific programs.

The new sections contained in this bill designated as Part II have been reordered and renumbered (in the 201-299 series) for functional efficiency. For example, all revenue bond related items have been isolated in the 211-220 series. Items relating to the trustee have been isolated in the 221-230 series. Future amendments to the loan to lenders program, for example, should be included in the 241-250 series.

4. The definition of "mortgage lender," as amended for style, has been included in Part I since this definition has more universal applicability. The definition of "Authority" and "State" have been deleted since "Authority" has been previously defined in Part I, and because "State" is commonly understood.

The numeric ordering of the remaining definitions has been deleted. This will facilitate future amendments to this section, allowing new definitions to be inserted in proper alphabetical order, and obviating substantial unnecessary clerical tedium.

5. The definition of "eligible borrower" has been narrowed to require that he (or she) be a United States citizen or declarant alien, be at least of legal age, and not own any interest in residential real property in the State. This is to provide more conformity with existing requirements for purchasers of State-developed housing, and to ensure that loans will be made on the basis of need. New section 356-206 is substantively identical to provisions contained in the definition of "eligible borrower" in H.D. 2 of the bill.
6. The definition of "eligible loan" has been narrowed to delete loans made for "improvements on residential real property" in conformance of the intent of the bill--to provide loans for home purchase or for leasehold conversion.

New section 356-207 is substantively identical to provisions contained in the definition of "eligible loan" in H.D. 2 of the bill.

7. Sec. 356-211. The authorization of revenue bonds has been decreased from \$200 million to \$50 million. Your Committee believes that this amount is large enough to provide funds to the Authority for an initial offering, and will be sufficient to fund loans during the next year. Your Committee intends to closely monitor the program upon implementation to ensure fiscal propriety and sound operations.

8. Sections 356-212, 356-213, 356-214, 356-215, 356-216, 356-221, and 356-222 are substantially similar to sections 356-42 and 356-43 of H.D. 2 of the bill.

A provision allowing the revenue bonds to be sold either at public or private sale at a price "determined to be in the best interest of the State" has been included (Sec. 356-214(c)).

A provision allowing rather than requiring the director of finance to appoint the trustee to serve as fiscal agent has been included (Sec. 356-221(d)).

9. Sections 356-44, 356-45, 356-46, 356-47, and 356-48 of H.D. 2 of the bill have been rearranged as sections 356-231, 356-241, 356-251, 356-261, and 356-271 without substantive change.
10. Items (1) to (8) of section 356-49 and sections 356-50, and 356-51 of H.D. 2 of the bill have been deleted. These provisions already exist in Part I of 356, and are unnecessary.
11. A provision restricting the transfer of a housing unit furnished under the programs in this bill has been added. The provision requires the eligible borrowers, during the first seven years of ownership, to provide the HHA with a first option to purchase the property at a specified price. If the Authority does not exercise its option to purchase, the eligible borrowers may sell the property to: (1) another eligible borrower at no penalty; or (2) a person who does not meet the requirements of an eligible borrower by paying to the authority a specified amount.

Your Committee feels that the inclusion of this "buyback" will provide an economic disincentive to speculators who will take advantage of the State's credit.

12. Item (9) of section 356-49 of H.D. 2 of the bill relating to the advisory council has been revised as SECTION 6 of S.D. 1 of the bill.

The membership of the council has been expanded to include the governor's special assistant on housing, the Chairman of the House Committee on Housing, and the Chairman of the Senate Committee on Housing and Hawaiian Homes; or their designated representatives.

It is the intent of your Committee that this advisory council not be a standing committee, but exist to assist in the implementation of the programs, and then be discharged. Your Committee has amended the bill accordingly.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 1686, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1686, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 732 (Majority) Health on H.B. No. 159

The purpose of this bill is to amend Section 448-5, Hawaii Revised Statutes, by requiring one out of eleven members on the Board of Dental Examiners to be a duly licensed dental hygienist who has been practicing dental hygiene for five years preceeding appointment.

Currently, the nine-member board is composed of seven dentists (one each from the counties of Hawaii, Maui, and Kauai; four from the City and County of Honolulu), and two lay persons. This bill modifies the Board's composition by adding a dental hygienist and a lay person, thus increasing the membership from nine to eleven individuals.

Your Committee feels that a trained dental hygienist could provide valuable professional input into the operation of the board. We recognize that it is pertinent to provide for the representation of dental hygienists on the board that regulates their profession.

While your Committee concurs with the intent of the bill, we feel the addition of another lay person on the board is unnecessary since the general public is currently represented by two members. Your Committee has amended the bill by decreasing Board membership from eleven to ten members due to the elimination of the newly added lay member.

Your Committee has further amended the bill by adding the requirement that the appointed dental hygienist be engaged in practice in the State of Hawaii for five years preceeding appointment. Your Committee's intent in adding this requirement of local professional

experience is to help ensure increased sensitivity and knowledge of the needs and concerns of the citizens of the State.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 159, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 159, H.D. 1, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.
Senators Takitani and Yee did not concur.

SCRep. 733 (Majority) Health on H.B. No. 520

The purpose of this bill is to allow a minor to seek medical care and services relating to pregnancy and family planning. Presently, minors may obtain medical care and services for diagnosed pregnancy or venereal disease without parental consent. This bill further allows the physician discretionary authority to inform a minor's spouse, parent, custodian or guardian regarding services rendered to a minor, after the physician has consulted with the minor to whom the services are given.

Your Committee is aware of a recent United States Supreme Court ruling recognizing the constitutional right of minors to obtain contraceptives without parental consent. In addition, twenty-six states and the District of Columbia have enacted laws similar to the law now being proposed.

However, equally important to the issue of constitutional rights is the relationship of the parent and the child. It is the intent of your Committee to stress the importance of counseling to "open the lines of communication between parent and child" by the attending physician or another person licensed to practice medicine. Unfortunately, in our present age, there has been and still is a breakdown in communication between the parent and child regarding the issue of sexual activity. In addition, there has been an increase of unwanted teenage pregnancy and venereal disease. In light of this, your Committee finds that minors need to be more responsible for their actions in these cases. Your Committee also finds that the trauma incurred by unwanted teenage pregnancy and by contracting venereal disease is of such a crucial nature for the minor, that such can be alleviated through proper planning and counseling through this bill.

Your Committee has amended this bill to allow minors the right to privacy in regards to services rendered relating to pregnancy or venereal disease, if the minor has not been diagnosed to be pregnant or has not been diagnosed to have venereal disease.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 520, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 520, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.
Senator Campbell did not concur.

SCRep. 734 Health on H.B. No. 696

The purpose of this bill is to require the Department of Health to issue a birth certificate for foreign born children adopted in this State.

Presently, birth certificates are not issued to foreign born children adopted in Hawaii.

This bill would allow preparation of a Hawaii birth certificate for foreign born children upon request after the adoption decree has been finalized and upon furnishing of required evidence. However, the birth certificate will not constitute evidence of U.S. citizenship.

Your Committee finds that due to an increase in adoption of foreign born children in this State, passage of this bill is needed because the law was not intended to exclude foreign born adopted persons from receiving a birth certificate.

Your Committee has amended subsection (a)(3) to clarify the intent.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 696, H.D. 1, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 696, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 735 Health on H.B. No. 1406

The purpose of this bill is to appropriate \$650,000 to the Hawaii Medical Association for its Emergency Medical Services Program.

This appropriation would further develop the program on Oahu and on the neighbor islands by providing technical assistance in all aspects of the development of a comprehensive statewide emergency medical services system. The HMA-EMS has completed eight years of experience in developing a modern, comprehensive emergency medical services system. This appropriation will enable continuity of program development.

Your Committee feels that the HMA-EMS program provides the necessary and proper training to professionals and para-professionals to function effectively in delivering high quality emergency medical care. We also recognize that efficient and well-trained emergency services personnel is in the best interest for the health and well-being of the people of the State.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1406, 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. 736 (Majority) Health on H.B. No. 1657

The purpose of this bill is to amend Section 327C-1, Hawaii Revised Statutes, by deleting the requirement that a neurologist or a neurosurgeon be called in for consultation by the attending physician to determine when a person is dead in cases where artificial means of support preclude making a determination that respiratory and circulatory functions have ceased. The bill designates the attending physician as the sole individual responsible to make the determination of death in such cases.

We recognize that the present statute is especially restrictive to the neighbor island hospitals where neurosurgeons and/or neurologists are not readily available, unless flown in from another island, or by travelling long distances, often resulting in a prolonged period before a person may be pronounced dead. Your Committee feels that repealing this restrictive requirement can help to alleviate the problem faced by the medical profession, especially on the neighbor islands, without jeopardizing the public health and welfare of the citizens of the state.

Your Committee has amended the bill by making a technical change at line 20 on page 2, and by adding a section stating the effect of bracketing and underscoring in the bill.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1657, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1657, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.
Senator Chong did not concur.

SCRep. 737 Ecology, Environment and Recreation on H.B. No. 583

The purpose of this bill is to improve the enforcement of the statewide litter control program by redefining some terms, clarifying violations, and increasing the maximum fine for offenses.

Your Committee heard testimony from the Department of Health; Environmental Quality Commission; and the Environmental Center, UH; all of whom concurred with the intent and purpose of this bill.

Further testimony included support from the Governor's Advisory Committee on Litter Control.

Your Committee has been assured that the Department of Health will be exploring alternate methods of enforcing Hawaii's litter laws and regulations. Among the topics which will be explored are the creation of a "first offense, second offense, third offense" system of penalties; the use of courtesy tickets for first offenders; the mandatory assignment to litter pick up and removal for repeat offenders; and the establishment of a link to the point system used in traffic violations cases. The Department will be reporting back to the 1980 session on their long-range plans for litter prevention and enforcement including the items discussed above.

Your Committee has amended Section 4 of the bill by adding:

"The penalty shall depend upon the type, quantity and location of the litter and on whether the litterer has previously been found in violation of this Chapter. Major offenders should be subject to both the fine and to litter pick up and removal. All persons who are caught littering may be required to remove the litter that they caused or are liable for the costs of removing that litter."

The additional provision has been included to cite those offenders who wilfully litter in lieu of traveling to landfill sites which may be miles away. These major offenders, in many cases, have been literally "dumping" trash along the cliffsides along main highways because the minimal penalty is a small price to pay for the "convenience".

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. 583, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 583, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 738 Ecology, Environment and Recreation on H.B. No. 617

The purpose of this bill is to amend Section 205-33, regulating the mining or taking of sand, coral, rocks, soil or other beach or marine deposits from shoreline areas. The bill will permit State or County agencies to replenish sand on public beaches from offshore sand deposits and also allows taking for reasonable, personal, non-commercial use. Deep water mining would also be allowed. The bill also removes superfluous provisions from the statutes.

Testimony before your Committee by the Department of Transportation reveals that existing statutory prohibition, in some instances, affects beach sand replenishment projects in both an operational and economic perspective. As an example, Kualoa Regional Park, Oahu, is currently experiencing severe erosion problems and the current statute prohibits the use of sand deposits located offshore in less than 30 feet of water. As a result, this prohibition severely affects the implementation of beach replenishment at the Kualoa site and also increases the total cost of the project. The U. S. Army Corps of Engineers conducted cost comparisons of the sources of sand for the replenishment of the Kualoa Beach Park.

Your Committee further finds that it is desirable to include the taking of sand, coral, rocks, soil or other beach or marine deposits from public beaches for reasonable personal use as a permitted exception to the taking of those materials from the shoreline area and ocean. This would allow individuals to take small quantities of those materials for use in gardens, children's sandboxes and other similar small scale needs.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 617, H.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Economic Development.

Signed by all members of the Committee.

SCRep. 739 (Majority) Ecology, Environment and Recreation on H.B. No. 1215

The purpose of this bill is to amend Section 46-6, Hawaii Revised Statutes, regarding current park dedication legislation.

Testimony before your Committee by environmental groups and the Construction Industry Legislative Organization, Inc. supported the overall intent of the bill.

Because lobbying for a park dedication ordinance in the City and County of Honolulu has proven to be a long and difficult procedure, the original bill was amended to remove the option of park dedication from the county.

Your Committee feels that the counties should have the flexibility to determine their individual needs.

Your Committee has therefore amended the bill by deleting the word "shall" and inserting "may" on page 1, line 4. This would provide the counties with flexibility in the enactment of park dedication procedures, setting park dedication fees, and establishing by ordinance a time limit within which they must spend the park dedication fees they have collected.

Your Committee has also deleted the word "precedent" in line 5 so as to allow the counties

to have more flexibility as to when the land has to be dedicated or the fees paid.

In addition, the bill deletes the present statutory exemption of hotels from the park dedication fee because of Waikiki's space problem. Your Committee recommends that the words "other than a hotel" remain in the statutes and has amended the bill to reflect this provision on page 4, lines 22 and 23.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 1215, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1215, H.D. 1, S.D. 1, and be referred to the Committee on Economic Development.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 740 Ecology, Environment and Recreation on H.B. No. 1338

The purpose of this bill is to eliminate all fees charged to the public for admission to the Waikiki Aquarium. The bill also authorizes the Aquarium to accept donations through a special fund and to utilize moneys so received for the maintenance and operation of the Aquarium.

Founded in 1904, and part of the University of Hawaii since 1919, the Waikiki Aquarium is the third oldest such institution in the United States. For the largest part of its history, the Aquarium's major objective was the exhibition of aquatic life, and display for educational purposes were minimal. In the last four years, however, education has become the major goal.

This bill will enable the Waikiki Aquarium to solicit donations through a special fund and to some extent become partially self-supporting. It is the belief of your Committee that if the current 25¢ fee were eliminated, donations to the Aquarium would exceed what is currently generated (\$35,000 per year). The increased moneys would result in expanded expenditures for improved facilities and educational programs. All donations are to be received by a nonprofit, educational foundation approved by the regents of the university.

Marine Programs of the University of Hawaii, the Friends of the Waikiki Aquarium and interested citizens reveal complete support for this measure.

In view of the adoption of Senate Resolution No. 286 requesting the Department of Planning and Economic Development, the Department of Transportation, and the University of Hawaii to determine the feasibility of the relocation of the Waikiki Aquarium in the 1995 Master Plan for Honolulu Harbor, your Committee has amended the bill to remove the provision for the "expansion" of the aquarium from section 1.

Your Committee feels that all expansion measures that the Aquarium engages in should be kept at a minimum pending the results of the requested feasibility study.

Your Committee has also amended the bill by adding a new section which will require the director of the Aquarium to prepare an annual progress report for the Legislature.

This new section has been added because your Committee feels that the Aquarium's operations as maintained under the nonprofit, educational foundation as approved by the board of regents of the University of Hawaii, should be reviewed by the Legislature pursuant to the intent and purpose of this Act.

Your Committee has also amended the bill to renumber sections 4 and 5 to sections 5 and 6, respectively.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 1338, H.D. 2 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1338, 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 Yee.

SCRep. 741 Ecology, Environment and Recreation on H.B. No. 1526

The purpose of this bill is to allow retailers to phase out their shelf stock of beverages in containers with detachable openings after the ban goes into effect on July 1, 1979.

Based on testimony from the food industry, many retail dealers may require an extension of time beyond the present deadline because quantities of stock will still be in some stage

of transit between manufacturer and retailer. The extension would allow for a smoother transition to the new prohibition against pull tab cans and prevent large quantities of merchandise from being dumped.

Your Committee feels that a phasing out period of ninety days would be sufficient to exhaust the inventories of noncomplying containers in the retail stores.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 1526, H.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Consumer Protection.

Signed by all members of the Committee.

SCRep. 742 Ecology, Environment and Recreation on H.B. No. 1659

The purpose of this bill is to permit the Director of Health to issue certificates to qualified wastewater treatment plant operators without the constraint of a statutory deadline.

Your Committee agrees with the testimony from the Department of Health that the deletion of the application deadline removes the constraints of the mechanics of filing which are deemed to be unnecessary and without purpose. Your Committee recommends passage of this housekeeping measure enabling the Department of Health to establish its own rules for certification. Your Committee has also requested that the Department of Health submit these rules to the Legislature for information purposes.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 1659 and recommends that it pass Second Reading and be referred to the Committee on Health.

Signed by all members of the Committee.

SCRep. 743 Ecology, Environment and Recreation on H.B. No. 1668

The purpose of this bill is to clarify certain vague prohibitions and requirements contained in Chapter 149A, Hawaii Revised Statutes, to initiate fees for the certification of restricted pesticide applicators, to correct legal terminology, and to provide for penalties which conform to the definition of misdemeanor in section 701-107, Hawaii Revised Statutes.

Under present law there have been unintentional violations through misunderstanding of vague provisions. Also, there are no fees for the certification of restricted pesticide applicators, and therefore no means to recover expenses incurred in administering the certification program.

Your Committee is in agreement that these clarifications and corrections are desirable, that expenses incurred in the administration of the certification program should be recovered through fees, and that the penalties should conform to the standard classification of misdemeanor.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 1668 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. 744 Health on H.B. No. 166

The purpose of this bill is to allow substitution of brand name drugs with their generic equivalents, establishment of a State drug formulary and other provisions to facilitate substitution of drugs.

Your Committee has amended the bill as follows:

The section on definitions has been amended to clarify "Brand name" or "Established name", "Generically equivalent" or "Equivalent drug product" and to add "Bioequivalency requirement" and "Board".

Provisions under the "Drug product selection" section were changed to make substitution mandatory and to enable enforcement of this requirement.

This bill was amended by adding a board for the purpose of establishing a State formulary. Your Committee has found the need for a board to include expertise from the pharmacists and physicians to insure the safety of the public.

The "Drug formulary" section was amended by giving the board the option of establishing generic equivalents of the most common used drugs in Hawaii, through FDA and other relevant sources. This formulary will also recognize the scientific evidence of certain drugs not having the same bioequivalency although they may be therapeutically equivalent. In addition, the formulary may include and mention those drugs found to have no generic equivalent.

Due to testimony questioning the potential cost-savings for the consumer, your Committee has transferred to the Legislative Auditor the responsibility to monitor the effects of this Act, so that a more thorough study may be performed after one year of the Act's effective date.

Your Committee has found it necessary to include a requirement for a sign to be posted informing the public of the availability of substitution. Testimony repeatedly brought out the need to educate the public in order for them to be able to take advantage of any cost-savings from substitution.

There was concern by the pharmacists on the potential increase in liability for them due to substitution. Your Committee has amended this section so that a pharmacist does not incur additional liability from this Act.

We have also included provisions for a prescription form to delineate the prescriber's permission to substitute to circumvent any potential misunderstanding which may arise without it.

Your Committee has added a section for price posting to inform the public on the cost of products. In this way, they may choose the most economical drug for their needs. This section is also intended to facilitate the pharmacist's responsibility under Sec. 328- to inform a person presenting a prescription for which substitution is allowed, of the price difference of a brand name and its generic equivalent.

It is the intent of your Committee to design a bill that will safeguard the health and welfare of the people of Hawaii and to insure that realization of the maximum benefits derived from substitution may be obtained.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 166, H.D. 1 as amended herein and recommends that it pass Second Reading in the form attached hereto as H.B. No. 166, H.D. 1, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 745 Human Resources on H.B. No. 48

The purpose of this bill is to extend the State Comprehensive Employment and Training and State Loans for Certain Employment components of the State Program for the Unemployed for another year. \$3.7 million is to be appropriated for the SCET program, and \$0.3 million for the assistance and loan programs.

Your Committee finds that although the rate of unemployment for the State, as determined by the Department of Labor and Industrial Relations, has declined, there is still a significant problem with unemployment. The SCET program and the State Loans for Certain Employment program have been effective methods of providing opportunities which lead to stable employment, and have contributed, in part, to the decline in unemployment.

Your Committee has amended this bill to change the amounts to be appropriated for the SCET program from \$3.7 million to \$3.0 million, and to change the amount to be appropriated for the loan program from \$0.3 million to \$0.2 million. The objective of these two programs is to alleviate problems associated with high levels of unemployment, a temporary economic condition. Accordingly, the levels of funding for these programs should reflect only the levels necessary to meet their objective.

Your Committee has made further amendments to delete a provision for use of funds for the State Assistance for Certain Employment program, and also to make nonsubstantive, technical amendments to bring this bill into conformance with Act 80, SLH 1978 dealing with the addition and deletion of statutory material.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 48, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 48, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 746 Human Resources on H.B. No. 80

The purpose of this bill is to amend Chapter 349, Hawaii Revised Statutes, by adding new sections to provide for an advocacy function for the institutionalized elderly under the Executive Office on Aging; and to require long-term care facilities in Hawaii to permit the Executive Office on Aging access to these facilities and their records.

Your Committee finds that residents of long-term care facilities are the most vulnerable of our senior citizens because of their total dependency on others to meet their physical, psychological and social needs. Accordingly, the development and establishment of specific advocacy components in state Offices on Aging has become a national priority under the Comprehensive Older Americans Act of 1978. While such components previously were generally implied requirements for the states to pursue, the 1978 Amendments to the Older Americans Act now mandate this advocacy function on behalf of the institutionalized elderly. Your Committee further finds that the term "long-term care facilities" means any skilled nursing facility as defined in Section 1861(j) of the Social Security Act, as amended, any intermediate care facility as defined in Section 1905(c) of the Social Security Act, as amended, any nursing home as defined in Section 1908(e) of the Social Security Act, as amended, and any other similar adult care facility licensed by the State serving the elderly.

Your Committee also finds that during 1976 to 1978, the Nursing Home Ombudsman Program was funded as a model project with nursing homes participating on a voluntary basis. At that time, approximately one-third of the facilities on Oahu agreed to have volunteer ombudsmen in their facilities. Your Committee however, feels that there is clearly a need for people to concern themselves with the quality of life experienced by residents of all long-term care residents in Hawaii. Therefore, mandatory access to facilities and their records is warranted. Additionally, this bill prohibits retaliatory acts by a facility or its employees against any resident seeking advocacy assistance or making a complaint about a facility or any of its employees. Such a violation shall be a misdemeanor.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 80, 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. 747 (Joint) Human Resources and Intergovernmental Relations on H.B. No. 356

The purpose of this bill is to allow every employee who is a member of the national guard to absent himself from his private employment while performing ordered national guard service and to be accorded certain rights of reemployment upon his return from national guard service as provided in this bill.

Your Committees find that under this measure, an employee returning from ordered national guard service shall be restored to the position which he held in private employment or to a position of like seniority, status, and pay if he is still qualified to perform the duties of such a position. If he is no longer qualified by virtue of a disability sustained during ordered national guard service, he shall be offered employment in another position which he is qualified to fill and which will provide him with seniority, status, and pay equal to that of his former position or the nearest approximation thereof. A provision is also included to qualify the foregoing employee's rights in cases where the circumstances of the employer have so changed as to make it impossible or unreasonable for the employer to comply with this Act.

Your Committees further find that federal legislation provides reemployment rights to guardsmen when called to active duty in a national emergency by the President of the United States. Further, federal legislation provides job protection when guardsmen are required to perform annual active duty training and monthly unit training.

Besides the fifteen days of annual training required of all guard persons, members of the guard have been ordered to State military active duty by the Governor on thirteen separate operations/missions during the past five years. They have been called on for disaster assistance, law enforcement and various other humanitarian missions. These missions required placing on State military active duty anywhere from two to one hundred fifty individuals at any given time.

Your Committees on Human Resources and Intergovernmental Relations are in accord with the intent and purpose of H.B. No. 356, H.D. 1, and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 748 Human Resources on H.B. No. 605

The purpose of this bill is to amend section 346-59 (pertaining to reimbursement of medical, dental, and other professional health care services) to:

- (1) provide specific statutory authority for the department of Social Services and Housing (DSSH), under its Medicaid program, to set the rates of payment for all providers of medical care, including individual professional practitioners, hospitals, clinics, institutional care facilities, and drug and supplies dispensers, as permitted by federal rules, and in accordance with the requirements of any appropriations act;
- (2) clarify that the federal rules pertaining to the receipt of federal Medicaid monies shall still control the amounts of payments made to all providers;
- (3) statutorily establish the process by which DSSH shall set the rates of payment for individual professional practitioners;
- (4) specifically provide statutory authority for the DSSH to contract with health maintenance organizations on a fixed fee prepaid basis for the provision of medical care to eligible Medicaid recipients;
- (5) clarify the requirements which the DSSH must satisfy in preparing the biennium Medicaid budget request; and
- (6) require the DSSH to submit a report each year which indicates the amount of money needed to pay all providers at the maximum rates permitted by the federal rules.

Your Committee feels that more specific language is needed in Chapter 346 to establish statutory authority for the DSSH to set rates of payment for all Medicaid providers. The existing language of section 346-59 may be subject to misinterpretation, particularly with respect to which profile shall be the basis for the biennium budget and shall be used to determine the rates of payment for individual professional providers of medical care. The present language of the section could be misinterpreted to mean that the DSSH must pay these particular providers at rates based on a profile which was not used by the legislature as the basis for the Medicaid appropriation. Further, the current language of the section could be misinterpreted to require the DSSH to prepare a biennium budget based on a profile which is not available at the time the budget is being prepared. Your Committee feels that the specificity of the provisions in this bill corrects and prevents these possible misinterpretations.

Under this bill, in a particular fiscal year, the DSSH shall set the rates of payment for individual professional Medicaid providers by using the profile, or adjusted profile, of usual and customary fees which the legislature used in appropriating Medicaid monies for that fiscal year. In order to allow the legislature to give full consideration to the needs of the individual professional providers as well as the State's fiscal resources in making the appropriation, the DSSH shall also be required to provide the legislature with information relative to fee profiles in its biennium budget request as well as at the beginning of each legislative session, thereby insuring that the process of setting rates for Medicaid providers is a joint endeavor requiring input from both the DSSH and the legislature. Your Committee notes that this bill does not allow the DSSH to alter the rates of payment by adjusting the legislatively prescribed fee profile, or adjusted profile, in response to an unexpected increase in the Medicaid caseload.

Your Committee has amended this bill to further achieve clarification as follows:

- (1) On page 1, line 7, the word "for" has been deleted.
- (2) On page 1, line 9, the word "of" has been inserted before "medical care".
- (3) On page 2, line 10, the phrase "appropriation act and the" has been inserted between "the" and "Social".
- (4) Subsection (b) has been rewritten in its entirety without changing its substance.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 605, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 605, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 749 Human Resources on H.B. No. 1099

The purpose of this bill is to increase by \$50 the amount of monthly bonus currently payable to certain State retirees.

Your Committee finds that pensioners' bonus is a benefit originally conceived in 1945 to offset the rising cost of living. However, the inflationary trend in today's cost of living mandates an increase in the bonus, particularly since the individuals affected were employed at comparatively low salaries by today's standards.

Your Committee also finds that retirees who would qualify for the \$50 per month bonus now receive a minimum of \$202.32 per month. These retirees receive no Social Security benefits and had at least ten years of creditable service at the time of their retirement prior to June 30, 1971. Enactment of this bill would affect approximately 1,000 of the State's 11,000 retirees, enabling them to receive a minimum of \$252.32 per month.

Your Committee further finds that this bill provides an equitable and reasonable method of helping these retirees deal with the rising cost of living. The estimated cost of this bill is \$600,000 of which the State's share will be \$438,000 and the Counties' share will be \$162,000.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1099, 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. 750 Human Resources on H.B. No. 1183

The purpose of this bill is to allow individuals paying placement fees to employment agencies in accordance with Regulation XXIII of the Department of Labor and Industrial Relations to obtain a tax credit equivalent to such fees paid.

Your Committee finds that at present, the employment agency placement fee is only deductible in an itemized tax return as a miscellaneous deduction. The individual who uses the standard deduction cannot deduct the fee paid in his return. By allowing a tax credit for fees paid to employment agencies, this measure would reduce one of the costs of job hunting, and perhaps encourage job seekers to use an employment agency when the cost might otherwise discourage them from using this means to look for work. Demands on the state's job placement centers might also be alleviated.

Your Committee finds further that such an incentive for individuals to seek the services of a placement agency should promote a better environment for matching potential employees with employers thus creating a desirable market efficiency, and possibly reducing the state's unemployment rate.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1183, 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. 751 Human Resources on H.B. No. 1663

The purpose of this bill is to: (1) conform current vocational rehabilitation statutes with the federal vocational rehabilitation law; and (2) permit the department of social services and housing to administer the program within funding ceilings established by appropriations, federal allocations, grants, and funds available from other sources.

Your Committee finds that the state laws relating to vocational rehabilitation have not been updated since their enactment in 1955; however, the federal law has been amended in recent years. Statutory changes must be made in order to continue the State's eligibility for federal funds which are currently matched on a 20 per cent state and 80 per cent federal basis.

Your Committee further finds that present vocational rehabilitation statutes have resulted in suits against DSSH. Such suits, if upheld, will require the department to provide maintenance to any client upon request.

This bill provides for continued state eligibility for federal funds by conforming present statutes to the federal law. This bill further provides that DSSH may administer the program

according to such funds as stated under section 348-1 (State vocational rehabilitation; policy and scope).

Your Committee has amended this bill as follows:

(1) In section 348-1, the word "persons" is changed to "individuals" because all other references are to the "individual".

(2) A technical amendment has been made without changing the substance of this bill.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1663, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1663, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 752 Consumer Protection and Commerce on H.B. No. 165

The purpose of this bill is to make available to more retail liquor sellers the advantage of purchasing their inventory at quantity discount prices.

Under present law all business must be done on the licensed premises including the storage of inventory. This bill would permit the warehousing of liquor away from the licensed premises with prior approval of the liquor commission.

Your Committee feels that smaller retail liquor establishments will be able to benefit from discount purchasing in a manner similar to that of large businesses and therefore benefit consumers in general.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 165 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 Consumer Protection and Commerce on H.B. No. 188

The purpose of this bill is to remedy the situation where a foreign corporation sets up a dummy Hawaii corporation and subsequently merges with it or consolidates, in order to take advantage of the more favorable shareholder approval voting requirements for domestic corporations merging with domestic corporations.

Under present law, a domestic corporation that merges or consolidates with a foreign corporation must obtain, as a condition to merger or consolidation, 90 percent approval of its shareholders. This requirement has led foreign corporations to establish wholly owned domestic dummy corporations which then merge or consolidate with the domestic corporations which their parents originally intended to merge with. In this way, only 75 percent shareholder approval of the domestic corporation is statutorily required instead of the 90 percent required if it were to merge directly with the foreign corporation, thereby effectively circumventing the law.

The bill conforms the shareholder approval requirement for a domestic-foreign corporate merger to the 75 percent requirement for a domestic-domestic corporate merger. Your Committee feels that this change will eliminate the need for circumventing the law and in addition, will eliminate any equal protection questions that may have existed concerning the constitutionality of the present corporate merger law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 188, 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 Saiki.

SCRep. 754 Consumer Protection and Commerce on H.B. No. 556

The purpose of this bill is to specifically include the director of the office of consumer protection under the provisions of section 480-22 relating to consent judgments or decrees obtained pursuant to actions brought by the director under section 480-2.

In 1975, section 480-20 was amended to provide that the director of the office of consumer protection and the attorney general have concurrent jurisdiction with regard to enforcement

of section 480-2. Testimony given by the director of the office of consumer protection to the House Committee on Consumer Protection and Commerce indicated that this bill is needed to classify section 480-22 so that there is no question as to the authority of the director of the office of consumer protection to obtain consent judgments or decrees.

Your Committee has amended this bill to reflect the effect of underscoring.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. 556 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 556, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Saiki.

SCRep. 755 Consumer Protection and Commerce on H.B. No. 1449

The purpose of this bill is to add an enforcement provision to the union label law. Under this bill, any person in violation of the union label law would be required to pay damages not less than \$250 nor more than \$5,000. In addition, he would be required to pay all costs and attorney's fees.

The Union Label of the GAUI is registered with the patent office of the United States Department of Commerce to protect the design and its use under the federal laws covering trade marks and labels. In order to conform with the various State laws in the United States and to further protect the label, it is also registered with each of the 50 States. The Union Label indicates that the workmanship was produced by Union members and that the employees were covered by a collective bargaining contract including a Union Label license agreement whose label is registered with the Department of Regulatory Agencies, State of Hawaii.

The Union has encountered fraudulent use of the Union Label. The label was printed on products from open shops (unorganized firms) with the intent of misleading the public about the products being produced by skilled union members. The amendment to Section 482-4, Hawaii Revised Statutes, would seek to penalize the violator with legal costs incurred by the filing party and would also seek damages of not less than \$250 nor more than \$5,000 which is the penalty incurred under the federal statutes dealing with copyright violations.

Your Committee has amended this bill by changing "shall" to "may" on line 13 and 16 of this bill. This will give the Courts more latitude in enforcing the subsection.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1449, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1449, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Saiki.

SCRep. 756 (Majority) Consumer Protection and Commerce on H.B. No. 1577

The purpose of this bill is to permit the disclosure of information concerning a borrower's insurance policy, by a lender to third parties provided that the use of such information is for the purpose of monitoring the borrower's maintenance of the insurance.

Your Committee, after discussion and deliberation, has decided to defer action with respect to this issue at the present time. Instead, your Committee has decided that the cost of workers compensation insurance for employers and improved benefits for injured workers should be considered.

The purpose of this bill as amended is to reduce the cost of workers compensation insurance for employers and to improve benefits for injured workers.

The bill will establish the "Hawaii Employers Insurance Corporation" (HEIC) which will be placed under the Department of Budget and Finance for administrative purposes. The HEIC will be under the management and control of a board of three directors appointed by the Governor with the advice and consent of the Senate.

The HEIC will be a nonprofit corporation which will establish, manage, control, and operate a workers' compensation insurance business which will include but not necessarily be limited to:

1. Determining insurance rates and the collecting, accounting and investment of same;

2. Determining administrative needs and costs;
3. Determining the payment of claims and benefits; and
4. Determining a safety program to reduce accidents and injuries.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1577, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1577, S.D. 1, and be recommitted to the Committee on Consumer Protection and Commerce for further consideration.

Signed by all members of the Committee.
Senators O'Connor, Carroll, Saiki and Yee did not concur.

SCRep. 757 (Majority) Education on H.B. No. 38

The purpose of this bill is to conform the Hawaii Revised Statutes to amendments to the Hawaii State Constitution ratified by the electorate in 1978. The specific language of Article X, Section 2 reads as follows:

"There shall be a board of education composed of members who shall be elected in a nonpartisan manner by qualified voters, as provided by law, from two at-large school board districts. The first school board district shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second school board district shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai, and Niihau. Each at-large school board district shall be divided into departmental school districts, as may be provided by law. There shall be at least one member residing in each departmental school district."

Your Committee heard testimony from the Board of Education supporting changes in the apportionment of the departmental school districts and has amended the bill as follows:

1. The seventeenth and eighteenth representative districts have been removed from the third departmental school district (Honolulu) and placed in the fourth departmental school district (central Oahu);
2. The nineteenth representative district has been removed from the fourth departmental school district (central Oahu) and has been replaced by the seventeenth, eighteenth, and twentieth representative districts;
3. The twentieth representative district has been removed from the fifth departmental school district (leeward Oahu) and has been replaced by the nineteenth representative district.

These amendments were supported by the Board of Education in order to provide closer conformance between the election districts and the Department's administrative districts on Oahu.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 38, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 38, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Kawasaki, Ajifu and Anderson.
Senator Ushijima did not concur.

SCRep. 758 Education on H.B. No. 638

The purpose of this bill is to provide for the celebration of the eightieth anniversary of the arrival of the first Okinawan people in Hawaii by creating a temporary commission to plan and coordinate the celebration. The Governor shall appoint the members of the commission, and the Governor's office shall assist and support the commission in order to achieve the purposes of this bill.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 638, 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 Kawasaki, Ajifu and Anderson.

SCRep. 759 Education on H.B. No. 923

The purpose of this bill is to establish sanctions against persons who wilfully fail to return library materials and books.

Your Committee received testimony that the Department of Education is concerned with the problem of the loss of library materials, and would like to have the wilful detention of books and materials made a violation. The Department also testified that it wanted a penalty attached to such violation. Your Committee finds that the Penal Code already provides for a fine of up to \$500 for conviction of a violation.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 923, 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 Kawasaki, Ajifu and Anderson.

SCRep. 760 Education on H.B. No. 1656

The purpose of this bill is to provide that an unauthorized vehicle parked on public library grounds may be towed away or the owner or driver of the vehicle may be arrested without a warrant upon complaint of the librarian or other person in charge of the library.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 1656, 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 Kawasaki, Ajifu and Anderson.

SCRep. 761 Education on H.B. No. 1695

The purpose of this bill is to establish a temporary Scandinavian centennial commission to commemorate the 100th anniversary of the arrival of the first large group of Scandinavian people in Hawaii. The commission shall be placed in the Department of Budget and Finance, and may seek funds from private and public sources for its purposes. The commission shall plan the centennial program activities for the year 1981.

Your Commission on Education is in accord with the intent and purpose of H.B. No. 1695, 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, Ajifu and Anderson.

SCRep. 762 Human Resources on H.B. No. 1684

The purpose of this bill is to amend Section 346-37, Recovery of payments, to allow the department of social services and housing to recover from the estate of a deceased recipient:

(1) social services payments, money payments, or burial payments if there is no surviving spouse, child, father, mother, grandfather, grandmother, grandchild, stepfather, stepmother nor any designated heir;

(2) the amount of medical assistance paid to the recipient only if the recipient was age sixty-five or over when such medical assistance was received and there is no dependent surviving spouse, or dependent child who is blind, disabled, or under twenty-one years of age;

(3) public assistance, including medical assistance, food stamps, or burial payments if such public assistance was obtained by fraudulent means; or if public assistance is granted, it is subsequently discovered that the recipient, while living, or his estate, after his death, received income and resources not reported to the department as required under public assistance statutes; and

(4) medical and burial payments from third parties who are liable for these payments.

Your Committee finds that the Code of Federal Regulations (45 CFR 249.70) require that there shall be no recovery of medical assistance paid, except from the estate of an

individual who was sixty-five years of age or older when such assistance was received, and only if there is no surviving spouse, or any dependent child who is under age twenty-one, is blind or is disabled. This bill conforms existing statute to the federal requirement.

Your Committee further finds that the Attorney General has rendered an opinion to the effect that burial payments provided under section 346-15, Burial of an indigent, are not considered public assistance grants, and are therefore not encompassed by the recovery provisions of section 346-37. Moreover, the provisions of chapter 531 (relating to decedents' estates), do not specifically provide for the State's recovery of burial payments from the estate of deceased recipients. This bill provides the department with the authority to do so.

Your Committee further finds that the department is often unaware of third party liability, such as accident insurance, when providing medical assistance. Furthermore, the recipient may refuse to file a claim against the third party, or permit the department to claim for medical expenses which the department paid for through the Medicaid program. This bill requires a recipient to file a claim, and if he refuses to do so, this bill subrogates the department to the recipient's claim against the third party.

Your Committee has amended this bill by:

- (1) deleting the words "and the claim shall be allowed" from subsection (a), because under chapter 560 (probate code), these claims are already allowed;
- (2) re-wording subsection (a) to clarify the requirements for medical assistance as stated in federal regulations;
- (3) deleting the words "or burial payment" from line 18, subsection (b) and adding a separate statement relative to burial payment in the same subsection for the purpose of clarity; and
- (4) making a nonsubstantive, technical amendment.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1684, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1684, 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. 763 Agriculture on H.B. No. 722

The purpose of this bill is to expand the definition of a "qualified farmer" in Section 155-1, Hawaii Revised Statutes, to include "corporations incorporated in the State primarily for agricultural production purposes and which have been actively engaged in agricultural production for a minimum of two years."

Your Committee finds that broadening the scope of the law to permit loans to corporations incorporated in the State primarily for agricultural production purposes and actively engaged in agricultural production for a minimum of two years, will increase the base for agricultural development. This is consistent with the purpose of the agricultural loan law to promote the agricultural development of the State by stimulating, facilitating, and granting loans to qualified farmers.

Your Committee finds that there was some concern that the amendment set forth in this bill would enable large corporations to be recipients of these agricultural loans. Your Committee was assured that the procedure involved in qualifying for a loan, namely, being first rejected for loans by the banks and the Farmers' Home Administration, and then being approved by the board of agriculture, provides sufficient insurance that large corporations would not be the beneficiaries of this bill. Your Committee emphasizes its understanding that these loans would primarily benefit those agricultural corporations which are in financial need.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 722 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 Kawasaki.

SCRep. 764 Agriculture on H.B. No. 1252

The purpose of this bill is to strengthen the State's agricultural loan program. Included are clarification of the purpose and intent of the program, addition of the farm credit banks and private lenders from whom loans must be rejected before State loans are authorized, establishment of \$10,000,000 as the aggregate ceiling for the State's contingent liability for insurance of private lenders' loans, raising of interest rates, raising of the loan limit for operating loans, and providing funds for consultative services from the agricultural loan reserve fund. Additionally, to strengthen the agricultural loan program, this bill appropriates \$25,000 for consultative services and \$1,500,000 to the agricultural loan revolving fund of which \$750,000 will be expended for the new farmer program.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1252, 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 Kawasaki and Carroll.

SCRep. 765 Agriculture on H.B. No. 1633

The purpose of this bill is to amend Chapter 144 to enable the Department of Agriculture to more adequately monitor the manufacture and distribution of medicated feeds in Hawaii, to enter into a cooperative State-federal inspectional program, and to update the statute so it remains current with advances in feed technology.

Your Committee finds that the bill will be advantageous for agricultural inspection in the State for the following reasons: (1) it provides for the inclusion of the rules and regulations promulgated under the Federal Food, Drug and Cosmetic Act relating to animal feeds; (2) it provides for the adoption of Food and Drug Administration (FDA) Good Manufacturing Practice Regulations for medicated feeds and premixes; (3) Registration fees will still be assessed but the rate structure will be provided by rules and regulations; (4) it provides for labeling requirements pertaining to guaranteed analysis, adequate directions for use on feeds containing drugs, and precautionary statements on claims for feeds; (5) it provides for more detailed inspection, sampling and analysis of commercial feeds; and (6) it provides for the confidentiality of "trade secrets" by imposing a monetary fine and/or a prison sentence.

Your Committee is of the opinion that there is a potential human risk associated with medicated feeds and that this bill would enable the Department of Agriculture to refocus its inspectional service to concentrate on this risk.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1633 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 Kawasaki.

SCRep. 766 Agriculture on H.B. No. 1653

The purpose of this bill is to amend Chapter 150 to enable the Department of Agriculture to meet changing seed marketing practices, and to increase seed importers' license fees.

Your Committee finds that the bill will be advantageous for the agriculture industry for the following reasons: (1) it provides for additional labeling requirements to keep abreast of changing marketing practices; (2) it provides for the Department of Agriculture to adopt rules on recommended labeling requirements; and (3) it provides for the Department of Agriculture to set the licensing fee at a level appropriate to cover the costs of processing licenses.

Your Committee finds that keeping abreast with new innovations in the marketing of seeds, including the pelletizing or coating of seeds, and improvements in packaging will protect the consumer from purchasing products that do not meet state or federal standards.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1653 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 Kawasaki.

SCRep. 767 (Majority) Higher Education on H.B. No. 1060

The purpose of this bill is to encourage residents to join and be members of the Hawaii National Guard and of reserve components of the army, navy, air force, marine corps and coast guard.

Your Committee heard testimony indicating that millions of federal dollars were added to the State's economy with respect to full-time employees' salaries and drill status pay. It was also noted in testimony before your Committee that the economy of the State of Hawaii could suffer the loss of federal dollars otherwise generated as a result of having guard and reserve units with their full-time employees and drill status members.

Currently, the Federal government has three programs which are available to certain members of the Army National Guard. Persons without prior military service, enlisting for the first time, can select either the Enlistment or Education Assistance bonus programs. The reenlistment bonuses are limited to those persons with a certain number of years of prior service.

The Educational Assistance program provides for fifty percent of education expenses incurred by a guard member for instruction at an accredited institution to a twelve month maximum of \$500 and a total of \$2,000 for the term of the six years enlistment obligation. The enlistment bonus program consists of a \$1,500 award, payable \$750 upon satisfactory completion of initial active duty basic training to include award of Primary Military Occupational Skill (PMOS); \$200 at the satisfactory completion of the second and third years; and \$350 at the satisfactory completion of the fourth year.

Your Committee also heard testimony that almost all persons enlisting who qualify for these programs select the enlistment bonus rather than the Education Assistance Program.

The University of Hawaii testified that this bill was a matter of public policy and should be determined by the Legislature. However, the University further testified that should the Legislature endorse and confirm such a policy, it would be able and willing to accomplish the administrative activities associated with such a policy.

Your Committee has amended the purpose clause of the bill by adding the following phrase on line 5 of page one: "by providing tuition waivers at campuses of the University of Hawaii." This amendment to the purpose clause of the bill clearly sets forth the intent of the bill which was not consistent with the purpose section outlined in the House Standing Committee Report.

In response to questions raised by your Committee concerning Section 2 of the bill with respect to continued tuition waiver status for those guard or reserve members who would no longer be eligible, the bill has been amended by adding a new subsection to Section 2 stating that "The board of regents may adopt, amend and repeal rules necessary or desirable to the implementation of this section, subject to the provisions of Chapter 91, Hawaii Revised Statutes."

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 1060, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1060, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 768 Higher Education on H.B. No. 1211

The purpose of this bill is to implement Article X, section 6, of the Constitution of the State of Hawaii, as amended by the Hawaii Constitutional Convention of 1978, and pertaining to the jurisdiction of the Board of Regents, University of Hawaii.

The 1978 Constitutional amendment approved by the electorate amends the Constitution of the State of Hawaii to grant exclusive jurisdiction over the internal organization and management of the University of Hawaii to the Board of Regents, subject to the power of the Legislature to enact laws of statewide concern. The amendment requires the Legislature to implement this constitutional amendment through amendments to sections of the Hawaii Revised Statutes.

The purpose of the constitutional amendment is to resolve the governance problems at the University of Hawaii. This is attempted by delineating the respective powers of the Board of Regents and the Legislature. Notwithstanding the provisions of the Constitution,

there still remain numerous questions regarding the respective powers of the Board of Regents, the Governor and the Legislature as indicated in the Constitutional Amendment Information Sheets prepared by the Legislative Reference Bureau.

It is the opinion of your Committee that the answers to these questions raised by the Legislative Reference Bureau and echoed in the committee hearing are unanswered at this time. Your Committee feels it essential that the Committee on Judiciary in considering this bill recognize this. Extensive interim work is necessary to develop a requisite perspective so that the Legislative implications of the amendment may be clarified.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 1211, H.D. 1, only in so far as it incorporates the language of the amendment itself into law, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 769 Higher Education on H.B. No. 1588

The purpose of this bill is to repeal Chapter 446D, Hawaii Revised Statutes, relating to degree granting institutions and to replace it with a new chapter which would require unaccredited degree granting institutions to disclose their unaccredited status.

Upon reviewing the testimony presented on this measure, your Committee is not convinced that the repeal of Chapter 446D would be in the public interest. Although there are some problems with the present regulatory and licensing system, it serves to protect the public from "diploma mills" which grant degrees for a price and offer virtually no courses of instruction. Therefore, your Committee has amended this bill to delete the repeal of Chapter 446D, Hawaii Revised Statutes.

Because unaccredited institutions are allowed to operate for extended periods of time with temporary permits under the present regulatory system, your Committee has amended Chapter 446D to add the disclosure requirements for unaccredited institutions which were contained in the original bill. In its amended form, this bill would protect the public by requiring unaccredited institutions which are operating under temporary permits to disclose their unaccredited status.

Your Committee has further amended the bill by extending the life of Chapter 446D for six years until December 13, 1985. Without this amendment, Chapter 446D would be repealed as of December 31, 1979 under the provisions of Chapter 26H, Hawaii Revised Statutes.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 1588, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1588, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 770 Higher Education on H.B. No. 1624

The purpose of this bill is to convert community educational assistants at the Waianae-Nanakuli Education Center of Leeward Community College to regular civil service status.

The Waianae-Nanakuli Education Center assists in the education of Waianae-Nanakuli residents, and is presently staffed by two assistants who have been with the program since 1970 and 1972, respectively, and two other part-time employees who have been hired much more recently.

In 1977 the Department of Personnel Services reclassified the positions to regular civil service status, but as no subsequent criteria or list of eligibles was promulgated, the two long-time assistants were granted exempt status and were temporarily appointed to fill the positions at a salary range lower than their previous one.

Your Committee finds that these two individuals have been with the Center since its inception nine years ago and have acquired expertise and knowledge in the educational assistance field over that period of time. Your Committee feels they should be converted to regular civil service status because of a special set of circumstances.

Your Committee further finds that distinct questions were raised at the hearing on the question of civil service position conversion. It is the position of your Committee that action on this bill in no way constitutes general approval of conversion to regular civil

service status outside the established recruitment procedures for civil service positions.

Your Committee has deleted a sentence in Section 2 of the bill in order to remove the retroactive provision of the bill. Your Committee is unclear from the House Standing Committee Report if, in fact, this provision was deleted.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 1624, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1624, 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 Ushijima and Ajifu.

SCRep. 771 Higher Education on H.B. No. 1647

The purpose of this bill is to raise the maximum limit for the University of Hawaii research and training fund and to allow expenditures from the fund for indirect costs connected with research and training contracts and grants.

In 1974, the Legislature enacted Act 189, section 1, which established a University of Hawaii research and training revolving fund into which was to be deposited 10 percent of all income up to a maximum of \$200,000 annually from indirect overhead sources on account of all University held federal and other research and training contracts and grants.

Currently, each time the University of Hawaii accepts an extramural grant or contract, the University explicitly agrees to pay certain shared costs. The Federal government is aware of the fact that research generates the need for supportive services. Funds are supplied specifically to meet these extra costs, which are called indirect costs or overhead. Presently, the overhead rate at the University of Hawaii is 48.5% of every salary dollar in each research grant. In 1978, indirect cost funds amounted to over three and one half million dollars. However, under current law, only ten percent of all income up to a maximum of \$200,000 annually from indirect overhead sources is deposited into the University of Hawaii research and training fund.

Due to the fact that all but a maximum of \$200,000 annually of these overhead funds are deposited into the general fund, this means that researchers at the University of Hawaii are critically short of secretarial, clerical and administrative help. Shortfalls in these areas, as well as repair and replacement of wornout or defective equipment, is hurting and hampering the research capabilities of the University of Hawaii.

Your Committee has previously learned that while the University of Hawaii is considered one of the top fifty major research Universities, it is one of only four of those research Universities who fail to return overhead, except for a maximum of \$200,000, to their research Universities. Of the remaining top forty-six major research Universities, it has been noted by your Committee that the percentage of overhead returned to these Universities ranged from forty to one hundred per cent, with the vast majority returning one-hundred per cent.

In testimony before your Committee on this bill the President of the University testified that the amendment to section 304-8.1 in S.B. No. 411, S.D. 2 would be preferred over the present form of this bill.

Accordingly, your Committee has amended the bill to provide for the depositing of 50 per cent of all income from indirect overhead sources into the research and training revolving fund and to place a maximum limit of \$600,000 on the amount which the fund may accrue annually.

Your Committee further amended the bill by adding "facilitating research and training at the University" to the purposes for which funds deposited in the research and training revolving fund may be expended.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 1647, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1647, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 772 Higher Education on H.B. No. 1648

The purpose of this Act is to provide civil service exemption for nutrition program assistants of the University of Hawaii Expanded Food and Nutrition Education Program (EFNEP).

The EFNEP is a federally funded program designed to educate and advise persons in target areas of their families' nutritional needs and economical ways of fulfilling these needs. Field work for this program involved home visitations by Nutrition Program Assistants. There are currently 33 part-time (50%) positions funded by the U.S. Department of Agriculture which are assigned to the Program. Most of these positions were established in 1969 and have been filled on a civil service exempt basis pending the establishment and filling of regular civil service positions.

In 1977 the descriptions for position classification and pricing actions were sent to the Department of Personnel Services (DPS) with instruction to explore further civil service exemptions. In February 1978, such exemptions were denied as the program was not time limited, but a regular and continuing one with annual funds from the U.S. Department of Agriculture, similar to that of other state-administered programs funded by the Federal government.

Although the one year limitation of exemption via HRS 76-16(3), has run out, DPS permitted the exemption of these positions for an additional year and four months (until June, 1979) while civil service positions are established and filled accordingly.

Of the 33 Nutrition Program Assistant positions, 26 are now filled. The earliest employment date is October 1, 1969 and the latest, August 1, 1978. One employee is paid at the SR-11 rate and the others at SR-10. Their current salaries include negotiated salary increases over the years.

Your Committee finds that these positions should not be converted to civil service for the following reasons:

1. Federal guidelines require that aides must be indigenous to the area they serve, therefore, in Hawaii, aides must live in the area where they work and be of similar ethnic background as their low-income audience. Civil service recruitment procedures are not designed to recognize these special and unique requirements which are considered necessary for effective program results.
2. Civil service is set up to provide competitive selection whereas EFNEP has no desire for the applicant with the highest examination score. Aides will probably not be college graduates, and studies have shown that being from the same target group they serve is the key to successful visitations.
3. A new civil service classification would need to be established. This would service only a limited number of people, and such positions would be restrictive because there would be no other comparable jobs to transfer or be promoted to.

Therefore, to comply with Federal guidelines, this measure would authorize permanent exemption for all nutrition program assistants.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 1648, 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. 773 Housing and Hawaiian Homes on H.B. No. 890

The purpose of this bill is to conform the Hawaii Revised Statutes to the actions of the Constitutional Convention of 1978. The pertinent language of Article XII, Article XVIII and Article XVI to which such conformance is addressed by this act reads as follows:

ARTICLE [XI] XII

"PUBLIC TRUST"

Section 4. The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7, of the State Constitution, excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended, shall be held by the State as a public trust for native Hawaiians and the general public.

OFFICE OF HAWAIIAN AFFAIRS;
ESTABLISHMENT OF BOARD OF TRUSTEES

Section 5. There is hereby established an Office of Hawaiian Affairs. The Office of Hawaiian Affairs shall hold title to all the real and personal property now or hereafter

set aside or conveyed to it which shall be held in trust for native Hawaiians and Hawaiians. There shall be a board of trustees for the Office of Hawaiian Affairs elected by qualified voters who are Hawaiians, as provided by law. The board members shall be Hawaiians. There shall be not less than nine members of the board of trustees; provided that each of the following Islands have one representative: Oahu, Kauai, Maui, Molokai and Hawaii. The board shall select a chairperson from its members.

POWERS OF BOARD OF TRUSTEES

Section 6. The board of trustees of the Office of Hawaiian Affairs shall exercise power as provided by law: to manage and administer the proceeds from the sale or other disposition of the lands, natural resources, minerals and income derived from whatever sources for native Hawaiians and Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in section 4 of this article for native Hawaiians; to formulate policy relating to affairs of native Hawaiians and Hawaiians; and to exercise control over real and personal property set aside by state, federal or private sources and transferred to the board for native Hawaiians and Hawaiians. The board shall have the power to exercise control over the Office of Hawaiian Affairs through its executive officer, the administrator of the Office of Hawaiian Affairs, who shall be appointed by the board.

ARTICLE [XVI] XVIII

SCHEDULE

EFFECTIVE DATE FOR OFFICE OF HAWAIIAN AFFAIRS

Section 8. The Legislature shall provide for the implementation of the amendments to Article XII in Sections 5 and 6 on or before the first general election following ratification of the amendments to Article XII in Sections 5 and 6.

ARTICLE [XIV] XVI

GENERAL AND MISCELLANEOUS PROVISIONS

COMPLIANCE WITH TRUST

Section [8.] 7. Any trust provisions which the Congress shall impose, upon the admission of this State, in respect of the lands patented to the State by the United States or the proceeds and income therefrom, shall be complied with by appropriate legislation. Such legislation shall not diminish or limit the benefits of native Hawaiians under Section 4 of Article XII.

Article XII, Section 4, establishes that the lands granted to the State of Hawaii by section 5 (b) of the Admission Act and pursuant to Article XVI, section 7, of the State Constitution (excluding therefrom lands defined as "available lands" by section 203 of the Hawaiian Homes Commission Act, 1920, as amended) shall be held by the State as a public trust for native Hawaiians and the general public.

The Admission Act, among other things, granted to the State of Hawaii, effective upon its admission to the Union, the United States' title to all of the public lands and other public property. In section 5 (f) of the Admission Act, the United States mandated that those public lands granted at the time of the Act or later conveyed to the State be held as a public trust. The United States named five purposes for which the public trust was to be held by the State. They are:

- (1) Support of the public schools and other public educational institutions;
- (2) The betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended;
- (3) The development of farm and home ownership on as widespread a basis as possible;
- (4) The making of public improvements; and
- (5) The provision of lands for public use.

Section 5 (f) of the Admission Act further stated that: "such lands, proceeds, and income shall be managed and disposed of for one or more of the foregoing purposes in such manner as the constitution and laws of said State may provide..."

The State's practice prior to the constitutional amendment, had been to channel the

benefits of the public land trust, by and large, to the department of education. The Constitutional Convention adopted a more restrictive version of the Admission Act public trust in section 4 of Article XII. Section 4 specifically states that the public trust lands shall be held by the State as a public trust for native Hawaiians and the general public.

Sections 5 and 6 of Article XII establish an Office of Hawaiian Affairs, a nine member board of trustees who shall be Hawaiians elected by Hawaiians, and set forth the powers of the board of trustees. Included in the powers of the board is the management and administration of all income and proceeds from that pro rata portion of the trust referred to in section 4 of this article for native Hawaiians.

Your Committee has amended the bill in several aspects as follows:

(1) Declaration of purpose. Subsection (a) has been amended by adding additional historic information. Subsection (b) has been expanded to include instrumentalities of the state government.

(2) Definitions. This section has been enlarged for purpose of clarity. Based on testimony received from Mr. Abraham Piianaia and Mrs. Winona Kealamapuana Ellis Ruben, Executive Director of Alu Like, your Committee has amended the definitions by relying, for the definition of "native Hawaiian", on the definition contained in the Hawaiian Homes Commission Act, 1920, as amended, and which is used in H.B. No. 890, H.D. 1, and has added the following language: "provided further, the term "native Hawaiian" shall refer to the class of people of Hawaii whose aboriginal ancestors were born here and whose descendants thereafter have continued to reside in Hawaii." The term "Hawaiian has been changed to be "any descendant of the races inhabiting the Hawaiian Islands previous to 1778. Provided further, the term "Hawaiian" shall refer to the class of people of Hawaii whose aboriginal ancestors were born here and whose descendants thereafter have continued to reside in Hawaii.

The term "director" has been replaced by "administrator" to be consistent with Article XII, section 6 of the State Constitution.

(3) Purpose of office. Lines 12 & 13 on page 12 of H.B. No. 890, H.D. 1 incorrectly refer to "lands retained by the United States under section 5(e)". Section 5(e) provides for the conveyance to the State of lands which had been retained by the United States pursuant to sections 5 (c) and (d) of The Admission Act. Therefore "section 5(c) and 5(d) of the Act later conveyed to the State under section 5(e)" have been substituted for "retained by the United States under section 5(e)" to more accurately describe the lands concerned.

Subsection (1) of Sec -14 has been renumbered to subsection (2) and amended by deleting the word "the" on line 15 on page 11 of H.B. No. 890, H.D. 1 and adding "native Hawaiians and" between the words "to" and "Hawaiians" on line 11. This was done to conform to the restricted use of funds that will be set aside from the public land trust.

Subsection (4) of Sec -14 has been amended by adding the words "native Hawaiian and" between "fair" and "Hawaiian" on line 18.

Subsection (5) of Sec -14 has been deleted. Chapter 96, Hawaii Revised Statutes, created the Ombudsman for this and other purposes.

Subsection (6) renumbered to subsection (5). Amended to read "Receptacle for reparations." Reparations may come in forms other than land and moneys.

Subsection (7) renumbered to subsection (6).

Sec -14 has been renumbered to Sec -3. Your Committee feels such a change lends to a better understanding of the purpose of this chapter by establishing from the start the purpose of this office.

(4) Office of Hawaiian Affairs; established; general powers. This bill establishes an Office of Hawaiian Affairs as mandated by the constitutional amendments adopted by the electorate on November 7, 1978. The Constitutional Convention in proposing the Office intended that the Office should be independent of the executive branch of government. Standing Committee Report No. 59 states that "in order to insure accountability, it was felt that the board should be composed of elected members", that "the Committee intends that the Office of Hawaiian Affairs will be independent from the executive branch and all other branches of government although it will assume a status of a 'state agency", that the committee developed this office based on the model of the University of Hawaii", and that "in particular the Committee desired to use this model so that the office could

have maximum control over their budget, assets, and personnel".

Your Committee agrees with the intent of the Constitutional Convention in keeping the Office of Hawaiian Affairs independent of the executive and other branches of government. The members of the board governing the Office are elected and responsible to those people who elected them. Your Committee notes that heads of executive departments are appointed by the governor unlike the Office's board members who are elected and who should be directly accountable to the people electing them as with other elective officers. Making the Office subject to another agency's jurisdiction would only add more red tape and interfere with the Office's efficient operation, would be contrary to the goal of direct accountability of the board members to the people electing them, and might make the Office subject to interests which are competitive or even conflicting with the interests of the Hawaiian people for whom the Office is created. Your Committee further notes that creation of this Office independent of the executive branch has precedent in the University of Hawaii which is an independent corporate body created under the Hawaii Constitution.

(5) Board of trustees; powers and duties. This section has been amended by deleting the "to" on line 8 of page 10 and adding "in accordance with law to:", the words "property ehld by ... whatever source" on lines 12 to 14 have been deleted and amended with "lands, natural resources, minerals and income derived from whatever sources for native Hawaiians and Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in section -3 of this chapter." All above changes were done to bring this section closer to the language of Article XII, section 6.

Subsection (9) has been renumbered to subsection (10) and a new subsection has been created to allow the board to make available technical and financial assistance for programs and functions pertinent to the purposes of the office.

Sec -13 has been renumbered to Sec -5.

(6) Qualifications of board members. This section has been removed and renumbered.

(7) General duties of the board. This is a new section added to the bill, and it provides for general duties of the board which shall be done through the administrator. In drafting legislation to implement the office special attention was given to the role of administrator and the tools made available to achieve specific goals and to shape subordinates actions so that the goals can be achieved.

Generally, administration is execution, that is carrying out the rule and policy passed by the board or established by statute. In this view, there is a clear distinction between board and administrative powers: The board possesses the former, but when it passes a rule or when the legislature passes a law, what the administration does with the rule or statute becomes "administration". Although the board and the administration are not completely separate entities, it is the latter that has administrative power and must therefore follow mandates by the Legislature or decision of the board.

This kind of definition emphasizes "who does what," furthermore Article XII, section 6 reads "... The board shall have the power to exercise control over the Office of Hawaiian Affairs through its executive officer the administrator..."

On the other hand, the administrator, as stated in Article XII, section 6 shall be appointed by the board and implies that the board may remove the administrator. Thus the interpretation that "administration" is execution, and that there is a clear distinction between board and administrative powers, breaks down. One can side with the administrator or with the board, but judging from the surge of political awareness in the Hawaiian community and the language of Article XII, sections 5 and 6 the board may not consider itself limited to criticism, after-the-act, of decisions in the implementation of policy. The board may view its role in some cases as codirectional with the administrative staff concerned with the particular programs, not simply board authorization, appropriation, and post review.

The type of leadership provided by the board will be of major importance during the coming years. Two major liabilities are the newness of the office and that we are not dealing with a full time board. Especially if majority of the members are employed or have business which would further limit their time.

The administrator and his staff will have to be creative, both in their policy-recommending and implementing capacities.

Ventures in social planning must take into account many different factors and be based on deep understanding of the human element. The board can criticize, make suggestions, and give additional financial support, but as a practical matter, its policymaking function

cannot extend to many of the most crucial decisions in program implementation.

A tool affecting administrative policymaking should be mentioned: planning-programming-budgeting (PPB). The purpose of PPB is to define program goals, establish priorities, and achieve maximum work results at the least cost. As the years go by and new responsibilities are added to old ones, to the point where many administrative agencies are not sure just what activities they should be emphasizing. PPB calls for continuous comparison of the merits of all agency programs, old, new, and proposed; thus, it requires policy planning on a comprehensive, rigorous basis. PPB promises that, administrative policymaking will be more rational, the decisions sounder, and consequently the role of the administrator even more significant.

(8) Board of trustees; number; composition. This section has been amended by deleting "of trustees, hereinafter referred to as the board." Sec -2(2) sets forth the definition of board. Your Committee replaced the deleted language with "to be officially known as the Board of Trustees, Office of Hawaiian Affairs". This section has been renumbered to sec -7.

(9) Qualifications of board members. This section has been renumbered and the appropriate section number on line 22 has been provided.

(10) Qualifications of voters; registration. Here the bill has been amended by replacing "Hawaiian" for "person". Subsection (b) on line 13 to 22 has been deleted in its entirety. Subsection (b) duplicates subsection (a) and provides no new material or a better understanding of the section. Subsection (c) and (d) have been amended to (b) and (c), respectively. This section has been renumbered.

(11) Election of board members. Line 18 of this section refers to a two year term. However, line 20 on page 6 speaks of a four year term and since that section is titled "Term of office; vacancies" your Committee agrees that the term should be four years. Especially in the coming years where experience will be a major factor in the success of the office. Furthermore, this office provides no real compensation and to run every two years would create a hardship in terms of dollars spent on a campaign and the cost of holding an election, which would have to be paid by the State.

(12) Term of office; vacancies. Your Committee has amended this section to provide for non-staggered terms. Staggered terms for United States Senators is understandable since the seniority system is a controlling factor in the allocation of resources. Furthermore, Congress operates year round dealing with national and international matters compared to a part-time board possibly meeting thirty days of the year and delegating much of its responsibility to the administrator, the executive officer of the office which will become a bureaucracy in the years ahead.

This section has been further amended to require the filling of vacancies in accordance with a new section of chapter 17, Hawaii Revised Statutes.

This section, originally sec -8 has been renumbered to sec -10.

(13) Organization; quorum; meeting. This section has been amended by deleting the requirement of a secretary to the board. This is viewed as a cost item the office can do without.

This section, originally sec -10 has been renumbered to sec -12.

(14) Compensation; expense. Compensation for each day's actual attendance of an official meeting is provided, at a rate of \$50.00 per day, which is exactly what the board of education receives.

This section, originally sec -11 has been renumbered to sec -13.

(15) Administrator; appointment; tenure; removal. The requirement that the administrator be a Hawaiian has been deleted. Your Committee could not justify this requirement. The constitutional convention committee reports also gave no indication that the administrator be Hawaiian.

Your Committee felt that a two-thirds vote for removal of the administrator would act as a safe-guard and be in the best interest of the office and administrator who will be serving without regard to chapters 76 and 77.

The Committee, at this point in time, feels very strongly, that the administrator should not be paid comparable to that of a director under section 26-52. The administrator does

not have the responsibility, duties and supervision of personnel to warrant such a salary.

This section, originally sec -3 has been renumbered to sec -15.

(16) Assistant; staff. Amendments require that employment contracts shall not be for a period longer than two years with no limit on the total number of years employed by the office. Requires other positions to be subject to chapter 76 and 77.

This section, originally sec -4 has been renumbered to sec -16.

(17) Budget. Your Committee has created a new section requiring the board to submit a proposed budget for the office in accordance with chapter 37, Hawaii Revised Statutes, and further states that the office shall be subject to governmental auditing.

(18) Suits. This section has been amended. Your Committee disagrees with the language suggested by the Attorney General's Office and the opinion that prompted the position.

Under H.B. No. 890, H.D. 1, the Office of Hawaiian Affairs is both a governmental agency and a nonprofit corporation. The Office of Hawaiian Affairs was established in the State Constitution by Article XII, section 5. The Constitutional Convention's Committee on Hawaiian Affairs, in Standing Committee Report No. 59, stated that it intended that the Office of Hawaiian Affairs will be independent, "although it will assume a status of a state agency". Viewing H.B. No. 890, H.D. 1 in light of the general intent expressed by the Committee on Hawaiian Affairs, we find that, although the Office of Hawaiian Affairs is independent and responsible only to its constituents, it is partially funded by the State (H.B. No. 890, H.D. 1, sec 14), acts with the sanction of the government behind it (1) and is therefore a governmental agency.

As conceived by the Committee on Hawaiian Affairs and the drafters of H.B. No. 890, H.D. 1, the Office can be likened to both the University of Hawaii (2) and the Hawaii Housing Authority, (3) both of which are autonomous or semiautonomous corporations and agencies of the State.

1/ See Kam Koon Wan v. E. E. Black, Limited, 188 F.2d 558 (9th Cir.) cert. den. 342 U.S. 826, 72 S.Ct. 29, 96 L.ed. 625 (1951), wherein the court held that the military governor of Hawaii was an "agency of the United States" within the meaning of the Portal-to-Portal Act which provided an exemption to certain employers who acted in conformity with and in reliance on an administrative regulation of any "agency of the United States". The court, at p. 561, quoted with approval from Lassiter v. Guy F. Atkinson Co., 176 F.2d 984, 991 (9th Cir. 1949) as follows: "The authority to act with the sanction of government behind it determines whether a governmental agency exists. The form the agency takes, or the function it performs are not determinative of the question." American Samoa was an "agency of the United States within the meaning of S251 of the Internal Revenue Code, Bell v. Commissioner of Internal Revenue, 278 F.2d 100, 103 (4th Cir. 1960), and that the Army and Air Force Exchange Service is an "agency" under the Federal Administrative Procedures Act, Ellsworth Bottling Co. v. United States, 408 F.Supp. 280, 282 (W.D.Ok. 1975); W. B. Fishburn Cleaners, Inc. v. Army & Air Force Exchange Service, 374 F.Supp. 162, 164 (N.D.Tex. 1974).

2/ See A.G. Op. No. 6184 in which the attorney general opined both "that the University of Hawaii is an agency of the State government admits of no argument" and that the University of Hawaii is a "constitutional corporation of independent authority".

3/ See Aguiar v. Hawaii Housing Authority, 55 Haw. 478, 482 (1974).

(19) Your Committee has further amended the bill by revising certain sections of chapters 11 and 17 of title 2, Elections. Section 11-1 is amended by inserting the definition of "Hawaiian" and "native Hawaiian".

(20) Section 11-15, Application to register has been amended by providing the language suggested by the Association of Clerks and Election of Officers of Hawaii.

(21) Section 17- Office of Hawaiian Affairs Trustee. Your Committee has provided statutory material by which vacancies are to be filled. The board shall make an appointment to fill the vacancy and the appointee shall serve until a trustee has been elected in the next general election and who shall serve out the remainder of the original term.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 890, H.D. 1, as amended herein, and recommends that it pass Second Reading

in the form attached hereto as H.B. No. 890, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 774 Legislative Management

Informing the Senate that S.C.R. No. 61, S.R. Nos. 289 to 294 and Stand. Com. Rep. Nos. 671 to 773 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 775 Health on S.R. No. 74

The purpose of this resolution is to request the Department of Health to study the issue of treating acupuncture as a medical service for payment of medical care.

Your Committee recognizes that oriental medicine and traditional acupuncture treatment is widely accepted throughout Asia as a means of alleviating pain, curing disease, and maintaining health. In recent years, acupuncture has gained increased acceptance in Western nations.

Acupuncture practitioners were first licensed in Hawaii in 1976, and many medical doctors and dentists in the state currently practice this type of treatment.

The Hawaii Association of Certified Acupuncturists and Herbalists Association of America presented testimony citing both curative and financial benefits to be realized if acupuncture treatment is covered by third party payors. Currently, treatment by an acupuncturist for patients covered by worker's compensation or social services will be compensated for only by medical doctor referral or prescription. It is felt that treatment by licensed acupuncture practitioners should be included in the patient's choice since they are qualified to provide the acupuncture services where this method is desired.

California's Medicaid program covers the cost of licensed acupuncturist services at the option of the patient.

Your Committee concurs with the Department of Health's concern that a meaningful report cannot be submitted to the Senate in the short time remaining in this session. Your Committee has amended the resolution to require that the study findings and recommendations be submitted to the legislature 10 days prior to the opening of the 1980 Regular Session.

Your Committee on Health is in accord with the intent and purpose of S.R. No. 74, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 74, S.D. 1.

Signed by all members of the Committee except Senators Takitani and Yee.

SCRep. 776 Legislative Management

Informing the Senate that S.C.R. Nos. 62 and 63, S.R. Nos. 295 and 296 and Stand. Com. Rep. No. 775 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 777 Economic Development on H.C.R. No. 9

The purpose of this concurrent resolution is to request that the United States Department of Energy increase Hawaii's Strategic Petroleum Reserve to a ten million barrel capacity.

Your Committee is mindful of the fact that federal action has resulted in the deletion of the strategic petroleum reserve storage for Hawaii. Your Committee believes that the adoption of this concurrent resolution will contribute to the present efforts being made to obtain a reconsideration of the federal action so that a determination can be made that Hawaii does need and deserves the storage capacity being requested.

Your Committee has amended the concurrent resolution by adding the phrase "the Senate concurring," to the first "BE IT RESOLVED" clause which was inadvertently omitted in the concurrent resolution.

Your Committee on Economic Development concurs with the intent and purpose of H.C.R.

No. 9, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 9, S.D. 1.

Signed by all members of the Committee.

SCRep. 778 Economic Development on H.B. No. 147

The purpose of this bill is to amend section 183-41, Hawaii Revised Statutes, to prohibit the department of land and natural resources from permitting certain uses of land in forest and water reserves.

Currently, section 183-41, Hawaii Revised Statutes, gives the department of land and natural resources the authority to grant permits for certain uses in forest and water reserves that may be incompatible with the primary purposes for the forest and water reserves and of the Conservation Land Use District of which they are a part. The bill, as amended by the House Committee on Water, Land Use, Development and Hawaiian Affairs, would prohibit certain commercial and urban related uses in forest and water reserves, while continuing to permit such uses as helistops, heliports, and single-family dwellings. Your Committee is in accord with the amendment made by the House Committee.

Your Committee has adopted the recommendation of the department of land and natural resources and has amended the bill by deleting the word "public" from page 2, line 13, section 1, of the bill as referred to your Committee. This deletion will make it clear that both major public and private facilities of an urban nature will be prohibited in forest and water reserves.

Your Committee has made other nonsubstantive, technical changes to the bill including the renumbering of section 2 to section 3 and the adding of a new section 2 setting forth the effect of underscoring and bracketing in the bill.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 147, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 147, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 779 Economic Development on H.B. No. 187

The purpose of this bill is to provide the department of planning and economic development (DPED) greater flexibility in collecting, analyzing, and disseminating statistics on population, migration, and tourism.

Chapter 201, Hawaii Revised Statutes, presently requires the DPED to gather information on the movement of persons within and without the State through an entry-exit census. The law, however, provides no flexibility in the method used for collection of the data and further restricts the DPED in how it conducts this census.

Due to technical and operational problems, such as the anonymity provision in the present law which conflicts with another law requiring signed declaration forms and no release of funds, certain provisions of chapter 201, Hawaii Revised Statutes, have never been implemented.

Your Committee finds that this bill by giving the department greater flexibility in the method and approach to be used in gathering data would facilitate effective state planning, delivery of government services, and long-range policy-making.

Your Committee agrees with the intent and purpose of the bill but has made several nonsubstantive, technical, and language amendments.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 187, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 187, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 780 Ecology, Environment and Recreation on S.C.R. No. 27

The purpose of this concurrent resolution is to request the Governor of the State of Hawaii to take immediate action to initiate negotiations to arrange cooperative agreements

with the Coast Guard Commandant of the Fourteenth District and the Secretary of the Interior for the return of Tern Island and its facilities to the State of Hawaii.

Tern Island was designated as one of the Research Natural Areas to preserve Hawaiian wildlife and their unique habitats. Your Committee feels that upon termination of the U.S. Coast Guard activities in July, 1979, the future status of Tern Island is of concern and requires immediate attention. Tern Island possesses the only airplane landing strip in more than 1,000 miles and has the potential for aiding in emergencies such as medical evacuation of injured or sick fishermen or supplying of spare parts to disabled vessels. The necessity for this kind of support station for the commercial fishing industry is recognized by your Committee and it is felt that the intent of this concurrent resolution is appropriate and timely.

Your Committee further recommends that in view of the shortage of time, the Governor of Hawaii and the President of the United States cooperate and possibly expedite the matter through an Executive Order to arrange for Tern Island's return to the State of Hawaii.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.C.R. No. 27 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 781 Ecology, Environment and Recreation on S.R. No. 133

The purpose of this resolution is to request the Governor of the State of Hawaii to take immediate action to initiate negotiations to arrange cooperative agreements with the Coast Guard Commandant of the Fourteenth District and the Secretary of the Interior for the return of Tern Island and its facilities to the State of Hawaii.

Tern Island was designated as one of the Research Natural Areas to preserve Hawaiian wildlife and their unique habitats. Your Committee feels that upon termination of the U.S. Coast Guard activities in July, 1979, the future status of Tern Island is of concern and requires immediate attention. Tern Island possesses the only airplane landing strip in more than 1,000 miles and has the potential for aiding in emergencies such as medical evacuation of injured or sick fishermen or supplying of spare parts to disabled vessels. The necessity for this kind of support station for the commercial fishing industry is recognized by your Committee and it is felt that the intent of this resolution is appropriate and timely.

Your Committee further recommends that in view of the shortage of time, the Governor of Hawaii and the President of the United States cooperate and possibly expedite the matter through an Executive Order to arrange for Tern Island's return to the State of Hawaii.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 133 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 782 (Majority) Consumer Protection and Commerce on H.B. No. 660

The purpose of this bill is to amend Chapter 235, Hawaii Revised Statutes, by adding a new part which imposes a tax on the gain from the sale or exchange of rights to real property.

In recent years, Hawaii has witnessed a spiraling escalation of real estate prices which has had the effect of pricing increasing numbers of young local homebuyers out of the housing market. Numerous factors contribute to the critical residential housing shortage and skyrocketing inflation of housing prices in the State. Your Committee finds that speculative buying and selling practices is one of these factors.

Your Committee recognizes that this measure alone will not be a panacea for the housing problems confronting the citizens of this State, however, it is an attempt by the Legislature to curb the spiraling costs of housing in this State.

After much discussion, your Committee finds that a one year holding period is adequate to significantly reduce speculation. A holding period longer than one year may unnecessarily penalize bonafide investors from investing their capital in our State. If this were to occur, the most immediate effect will be to make it much more difficult or impossible especially during depressed periods for developers to meet pre-sale requirements imposed by lending institutions which is needed to trigger construction financing. If the pre-sale requirements are not met, your Committee finds that there will be fewer housing projects started and a housing shortage may occur. Based on the law of supply and demand, the ultimate

outcome will be higher housing prices which will defeat the purpose of this bill.

Furthermore, your Committee finds that there is general agreement that when a buyer of a right to real property closes escrow, he is not considered a speculator but a bona-fide investor for he would have committed a substantial amount of his personal assets. The act of recordation usually indicates the purchaser's intent to be a bona-fide investor rather than a short term investor. For this reason, your Committee has amended this bill by exempting any sale or exchange which occurs subsequent to recordation.

Your Committee upon consideration of this bill recommends the following amendments:

1. Delete from the definition of "real property" land, building and other structures of land, and any interest in real property and also options or rental agreements with options. Your Committee finds that most speculation occurs within the horizontal property regime market.
2. Confine the definition of "sale or exchange" as any sale or exchange as provided by the Federal Internal Revenue Code.
3. Reword the term "holding period" to include "the time the rights to real property was so held prior to the date of a subsequent sale or exchange of rights to real property".
4. Add the following paragraph: "The acquisition of the apartment and common elements by the seller or exchanger of rights to real property, which acquisition shall be determined by the recordation with the bureau of conveyances or filing with the Land Court of the State of documents required for the conveyance or transfer of the apartment and common elements, shall not constitute any incident of a sale or exchange of rights to real property."
5. Simplify the formula for determining the amount of taxes and reduce the tax. Your Committee finds that there may be some confusion as to the interpretation of the term "basis" as defined by the Federal Internal Revenue Code. Your Committee notes that this tax is in addition to all other taxes imposed by Chapter 235, Hawaii Revised Statutes, and finds it unnecessary to impose a highly exorbitant tax in order to meet the purposes of this bill.
6. Shift the burden of collecting the taxes from the buyer or transferee of the rights to real property to the transferor (which includes the owner, seller, or other exchanger) of the rights to real property sold or exchanged.
7. The seller or exchanger shall file a return with the director of taxation within thirty days from the date of closing of the sale or exchange of rights to real property. There may be instances when the closing of a sale or exchange of rights to real property may occur thirty days after the initial date of the sale or exchange.
8. Eliminate the criminal sanctions and impose a forfeiture penalty, in addition to a fine not more than \$10,000, for any person who wilfully defeats or evades or attempts to defeat or evade the tax imposed by this part.
9. Clarify the ambiguity that may exist by specifically stating that this "Act shall not apply to any contract or agreement to sell or exchange rights to real property executed before January 1, 1980".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 660, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 660, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

Senators O'Connor, Ushijima, Carroll, Saiki and Yee did not concur.

SCRep. 783 Judiciary on H.B. No. 38

The purpose of this bill is to implement Article X, section 2 of the Constitution of the State of Hawaii as amended by the Hawaii Constitutional Convention of 1978 and pertaining to the board of education. The pertinent language of Article X, section 2 to which such conformance is addressed by this bill reads as follows:

"BOARD OF EDUCATION"

Section 2. There shall be a board of education composed of members who shall be elected in a nonpartisan manner by qualified voters, as provided by law, from two at-large school

board districts. The first school board district shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second school board district shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. Each at-large school board district shall be divided into departmental school districts, as may be provided by law. There shall be at least one member residing in each departmental school district."

Under H.B. No. 38, H.D. 2, S.D. 1 the members of the board of education are to be elected from two at-large school board districts. The first school board district is comprised of the island of Oahu, while the second school board district is comprised of the islands of Maui, Molokai, Lanai, Kauai, Niihau and Hawaii.

The board is to be composed of thirteen members, ten of whom will represent the island of Oahu and three of whom will represent the other islands within the State. Your Committee believes that such an apportionment plan is consistent with the principle of "one man, one vote" as first enunciated in Baker v. Carr, 369 U.S. 186 (1961) which requires that voting districts be apportioned to permit equal representation by elected officials. See also, Wesberry v. Saunders, 376 U.S. 1 (1964); Hadley v. Junior College District, 397 U.S. 50 (1969).

Taking into account the population of Oahu as compared to the other islands, the 10-3 ratio as proposed by this bill falls within an acceptable range of deviation from exact mathematical precision following Wesberry v. Saunders, 376 U.S. 1 (1964), and Reynolds v. Sims, 377 U.S. 533 (1964).

"Whatever the means of accomplishment, the overriding objective must be substantial equality of population among various districts so that the vote of any citizen is approximately equal in weight to any other citizen." 377 U.S. at 579.

Furthermore, while a board composed of seventeen members with 13 members from Oahu and 4 from the other islands would result in a smaller deviation, your Committee has heard testimony from the Board of Education favoring a thirteen member board as the larger number was thought to be cumbersome and therefore less efficient than a smaller representative board.

Article X, section 2 also provides that seven of the thirteen board seats have a departmental school residency requirement. To implement this requirement, H.B. No. 38, H.D. 2, S.D. 1 provides that while all candidates seeking election to the board must run at-large from their respective school district, that seven candidates must be residents of the school districts from which the candidates are seeking election.

This additional provision under Article X, section 2 ensures that not only is each voter equally represented on the board, but also that the individual concerns of each community whether urban or rural will be represented on the board. Such a provision has been found to be constitutionally valid under Dusch v. Davis, 387 U.S. 112 (1967), where the Supreme Court upheld a residency requirement that was not for voting or representation purposes. Here, as in Dusch each board member is elected at-large and represents the whole at-large district which elected him and not merely the district in which he resides even if the seat the candidate sought was one with a residency requirement. See also, Fortson v. Dorsey, 379 U.S. 433 (1964).

While your Committee is in basic agreement with H.B. No. 38, H.D. 2, S.D. 1, several important provisions of this bill have been amended.

1. Section 17- (page 8), has been amended by deleting the rather confusing and cumbersome language pertaining to vacancies on the board during a member's term of office. Your Committee feels that there are only two basic contingencies that need be addressed by this section:

a) a vacancy which occurs prior to the next general election, the term of which would end at that election, or

b) a vacancy which occurs prior to a general election, the term of which does not end at that election.

H.B. No. 38, H.D. 2, S.D. 1 has been amended to provide that whenever a vacancy occurs, the governor will appoint a replacement who will serve until the next general election. The appointee shall only hold office until a general election. Where the general election is not the end of the term for that office, the candidate elected at the general election shall only hold office for the remaining portion of the original term of office.

Your Committee believes that this amendment not only simplifies the language of section 17- (page 8), but is also necessary in view of the proposed change to elect the members of the board at a special election held during the general election every four years.

2. Sections 296-7, 8, 9, and 10 on pages 15 through 19 in H.B. No. 38, H.D. 2, S.D. 1 pertaining to district school advisory councils have been deleted in their entirety as the title of this bill does not permit the inclusion of such subject matter under the body of this bill.

Your Committee has reviewed the purpose of school advisory councils and while a change in the structure of the school board will in many ways affect the advisory councils such technical changes must be accomplished in a more comprehensively titled bill as the school board and the school advisory council are separate entities.

3. A severability clause has also been added to H.B. No. 38, H.D. 2, S.D. 1 to allow for the exclusion of any provision under this bill found to be unconstitutional, while permitting the rest of the bill to remain in effect.

4. H.B. No. 38, H.D. 2, S.D. 1 as amended contains a provision which requires the lieutenant governor to declare after the close of the filing of nomination papers, that for any district in which there is only one candidate, that candidate has been duly elected.

This provision has been added to this bill to eliminate unnecessary cost both to the State and the candidate when there is only one qualified candidate for a particular office after the close of filing.

The change to a nonpartisan election as well as the holding of a special election during the general election for school board members without a primary election are added reasons for declaring a candidate duly elected after the filing of nomination papers when there are no other qualified candidates for that particular office.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 38, H.D. 2, 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 H.B. No. 38, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senators Ushijima and Carroll.

SCRep. 784 Judiciary on H.B. No. 890

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978 and which pertain to the establishment of the Office of Hawaiian Affairs.

1. The Constitutional Mandate. The key to understanding the Constitutional mandate imposed upon the legislature by the voters in their adoption of Constitutional amendments at the general election of 1978 pertaining to Hawaiian affairs lies in the language of article XII, section 4, which reads as follows:

"PUBLIC TRUST

Section 4. The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7 of the State Constitution, excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920, as amended, shall be held by the State as a public trust for native Hawaiians and the general public."

This seemingly cryptic language is deciphered as follows:

A. The Hawaiian Homes Commission Act, 1920, in pertinent part, governs that certain categories of lands there defined as "available lands" which are encumbered with a trust for the betterment of "native Hawaiians". Under that act, "native Hawaiians" means those persons who are "descendant[s] of not less than one-half part of the blood of races inhabiting the Hawaiian islands previous to 1778."

B. Admission Act. When Hawaii was admitted into the Union, the Admission Act, among other things, (1) required that the Hawaiian Homes Commission Act be "adopted as a provision of the Constitution" of the State of Hawaii; (2) granted to Hawaii "title to all the public lands and other public property, and to all lands defined as 'available lands' by . . . the Hawaiian Homes Commission Act;" and (3) required that all "such lands and the income therefrom, shall be held by said State as a public trust for the following five purposes:

- (1) Support of the public schools and other public educational institutions;
- (2) Betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended;
- (3) The development of farm and home ownership on as widespread a basis as possible;
- (4) The making of public improvements; and
- (5) The provision of land for public use.

C. Interpretation of the Public Trust. Your Committee notes that there were at least two ways of interpreting the "public trust" required by the Admission Act. The first is that such public trust is fulfilled with respect to the "betterment of the conditions of native Hawaiians" by virtue of the "available lands" of the Hawaiian Homes Commission Act being held and used in the interest of "native Hawaiians" as there provided. By such interpretation, all of the income from public lands transferred to Hawaii other than "available lands" could be utilized without a portion thereof being used specifically for native Hawaiians. Apparently, this is the interpretation that has been followed, as such income has by and large flowed to the department of education.

The other interpretation is that part of the income from public lands other than "available lands" was intended for the "betterment of the conditions of native Hawaiians" in addition to the "available lands" and their income benefiting native Hawaiians under the Hawaiian Homes Commission Act. By this interpretation, native Hawaiians have not received direct beneficial interest from the public lands (other than "available lands") as had been intended by the Admission Act.

D. Constitutional Amendments 1978. The delegates to the Constitutional Convention of 1978 were addressing themselves to this historical set of circumstances when they proposed the amendments pertaining to Hawaiian affairs. They adopted the latter interpretation of the Admission Act by article XII, section 4 and mandated that the "lands granted to the State of Hawaii by . . . the Admission Act . . . excluding . . . 'available lands' . . . shall be held by the State as a public trust for native Hawaiians and the general public."

The voters at the general election of 1978 also ratified article XII, sections 5 and 6, and by doing so, mandated the legislature to enact laws which:

- (1) give statutory existence to the Office of Hawaiian Affairs which is to function as a public trust "for native Hawaiians and Hawaiians; "
- (2) allocate a certain "pro rata" part of the income and proceeds from the lands granted to the State by the Admission Act (excluding "available lands"), to be managed and administered by the Office of Hawaiian Affairs;
- (3) define the term "Hawaiian;" and
- (4) enable the election of at least nine persons to the board of trustees of the Office of Hawaiian Affairs from among Hawaiians and to be elected by Hawaiians.

2. The Legal Confines of the Office of Hawaiian Affairs.

A. Towards the Rights of Man. The Hawaii Constitution was established as stated in its preamble, "with an understanding heart toward all the peoples of the earth." Among the first subject matters addressed by its language is the establishment of the essential "Rights of Man" in article 1, section 2. By those rights "all persons" are deemed under the Constitution to be "equal in their inherent and inalienable rights" in "the enjoyment of life, liberty and the pursuit of happiness"

Your Committee notes that inherent in our commitment to those rights is our duty to seek with incessant endeavor a society in which race, sex and all other antitheses to merit would disappear. We are therefore committed to the ultimate "melting pot," to the interdependence of all peoples, and to social, economic, cultural and educational mobility based on merit.

We are also cognizant of the fact that some may view H.B. No. 890, H.D. 1, S.D. 1 as standing in contradiction to Hawaii's commitment to equality because it is addressed to the needs of a specific people, the Hawaiians, and to aid their establishment of ethnic identity. If this bill appears divisive in this regard, it is not the legislature's intent that it should be so. It is rather our intent that the Office of Hawaiian Affairs should bring

to eventual reality the equal participation of Hawaiians in the ultimate homogeneous and perfectly equal society that we seek to achieve for all posterity.

B. The Office of Hawaiian Affairs as a Government Agency. Your Committee is in agreement with the Committee on Housing and Hawaiian Homes in its announcement in Standing Committee Report No. 773 that "the Office of Hawaiian Affairs is both a governmental agency and a nonprofit corporation." The public trust envisioned by article XII, section 4 requires the lands granted by the Admission Act "shall be held by the State as a public trust" By section 5 of that article, the Office of Hawaiian Affairs is created to "hold title to . . . property" which "shall be held in trust for native Hawaiians and Hawaiians." And by section 6, its board of trustees is required to "exercise power as provided by law" in its management, formulation of policy, and its exercise of control over property. "Provided by law" when used in constitutions, generally means prescribed or provided by statute. Lawson v. Kanawha County Court, 92 S.D. 786. As such, the Office of Hawaiian Affairs can only be established as a government agency subject to the laws enacted by the legislature of the State of Hawaii.

C. In Quest of Constitutional Intent. At this point, your Committee addresses the point raised by Standing Committee Report No. 773 respecting the degree of independence that must be accorded the Office of Hawaiian Affairs. First of all, we find it necessary to establish the weight that the legislature must accord to matters discussed in the committee reports of the Constitutional Convention which did not appear in the text of the Constitutional amendment placed before the voters for ratification. In dealing with all bills addressed to implementation of Constitutional amendments, we have considered only the text to have been ratified by the voters and therefore entitled to consideration as mandatory. Conversely, matters in the committee reports were considered entitled to serious consideration, but were nonetheless only advisory.

In that regard, we note that the Hawaii Supreme Court in Kahalekai, v. Doi, Haw. ____ (1979) ruled that the definitions of "Hawaiian" and "native Hawaiian," intended as text for article XII, section 7 but which had not been presented to the voters, had not been validly ratified. In its review, the court confined its deliberation to the question of "whether the election resulted in a valid expression of the will of the electorate." As such, unlike legislative committee reports which reflect the will of the legislators, the committee reports of the Constitutional Convention do not reflect "the will of the electorate" and cannot be given similar weight. Accordingly, in responding to the mandate of the Constitutional amendments, the legislature is not mandated to implement them in strict compliance with matters that may be discussed in committee reports but are not expressly reflected in the Constitutional text.

D. Degree of Independence in Matters of Internal Organization and Management. Your Committee is aware of the divergence between the actual language of article XII, sections 4, 5 and 6 and the language of Committee of the Whole Report No. 13 and Standing Committee Report No. 59 of the Constitutional Convention. More particularly, we are aware that Standing Committee Report No. 59 speaks broadly about the desire that "the Office of Hawaiian Affairs . . . be independent from the executive branch and all other branches of government" and that such office was "based on the model of the University of Hawaii."

We note with particularity the different treatment accorded the board of regents of the University of Hawaii and the board of trustees of the Office of Hawaiian Affairs by the actual texts of the Constitutional amendments.

Article XII, section 6 states that "the board of trustees of the Office of Hawaiian Affairs shall exercise power as provided by law" In contrast, article X, section 6 provides that the board of regents "shall have the power as provided by law, to formulate policy . . . ; except that the board shall have exclusive jurisdiction over the internal organization and management of the university." (Emphasis added.)

Accordingly, it is improper to equate the Constitutional status of these offices. It must be construed that the voters did not intend to give the board of trustees of the Office of Hawaiian Affairs exclusive jurisdiction over its internal organization and management as it did with the board of regents. In that respect, the statement in Committee on the Whole Report No. 13 that the establishment of the Office of Hawaiian Affairs was intended to grant the "power to make their own substantive rules in internal matters" is inconsistent with what was presented to the voters for ratification and cannot be given consideration.

E. The State's Plenary Power Over the Office of Hawaiian Affairs. To give specific definition to the language "provided by law" as found in article XII, section 6, we turn to the case of Santa Clara Pueblo v. Martinez, 98 Sup.Ct. 1670 (1978) cited in Committee on the Whole Report No. 13, where on page 1676 of that decision it is noted that despite

the recognition given Indian tribes as distinct and independent communities, Congress retains "plenary authority to limit, modify or eliminate the powers of local self-government which the tribes otherwise possess." This is not to intimate that the Office of Hawaiian Affairs is equated with Indian tribes. Rather, it is merely to state that even if that was the case, the State would retain plenary powers over it.

F. The Office of Hawaiian Affairs and Constitutional Provisions. Santa Clara Pueblo, supra, moreover, demonstrates the danger to constitutional rights if status equal to Indian tribes should ever be accorded the Office of Hawaiian Affairs. That case involved the question of whether equal protection guarantees of the Indian Civil Rights Act was violated by tribal ordinance under which the offspring of a mixed marriage in which the woman is a Santa Clara Pueblo were disqualified from membership in the tribe, whereas the mixed marriage offspring of a male member suffered no such disadvantage. The United States Court of Appeals of the Tenth Circuit held that the tribe was not justified in deviating from the Fourteenth Amendment's equal protection clause. However, the United States Supreme Court overruled the Tenth Circuit, on the narrow holding that Mrs. Martinez's suit against the tribe was barred by the tribe's sovereign immunity.

Your Committee notes that H.B. No. 890, H.D. 1, S.D. 1 contains no language establishing sovereign immunity in the Office of Hawaiian Affairs or intimating its supercedence over Constitutional rights. We would state unequivocally that the creation of the Office of Hawaiian Affairs is not intended to allow any erosion of constitutional rights afforded under the United States Constitution or under the Constitution of the State of Hawaii. This is not to infer that infringement of Constitutional rights is being, or was ever, contemplated. Rather, it is to clarify that where any policy decision by the board of trustees of the Office of Hawaiian Affairs is deemed to conflict with Constitutional rights, it is intended that enforcement of those rights are to be available through the courts of this State and those of the United States.

G. Summary. The foregoing does not purport to exhaust discussion of the legal confines of the Office of Hawaiian Affairs. Your Committee is mindful that much must be left to subsequent legislatures, the Office of Hawaiian Affairs, and its board of trustees to work out the appropriate boundaries of the public trust. It is hoped that the foregoing discussion will obviate confusion, and clarify what is expected of the Office of Hawaiian Affairs in Hawaii's quest to perfect in full measure "the Rights of Man."

3. Definition of "Hawaiian" and "Native Hawaiian". A trust requires (1) a settlor or creator of the trust; (2) a trustee; (3) a beneficiary; (4) a trust purpose; and (5) the trust res or property to be administered. The first two items are already evident in the public trust to be administered through the Office of Hawaiian Affairs.

We now turn to the beneficiaries of that public trust: the "Hawaiian" and the "native Hawaiian." As previously discussed, the Hawaii Supreme Court in Kahalakai v. Doi, supra, ruled that the proposed amendment to define "Hawaiian" and "native Hawaiian" had not been properly presented to the voters for their consideration and were not therefore validly ratified.

As such, the definition of "Hawaiian" included in proposed amendment, article XII, section 7, is not mandatory upon the legislature simply because it has no constitutional existence. Nonetheless, the distinction between "native Hawaiian" and "Hawaiian" is also found in article XII, section 5. As that section was found to have been properly ratified in Kahalakai v. Doi, supra, its proposed implementation requires statutory definition for the term "Hawaiian".

The definitions of "native Hawaiian" and "Hawaiian" found in H.B. No. 890, H.D. 1, S.D. 1 are taken verbatim from proposed amendment, article XII, section 7, with the addition of the proviso that they "shall refer to the class of people of Hawaii whose aboriginal ancestors were born here and whose descendants thereafter have continued to reside in Hawaii."

The definition of "Hawaiian" found in H.B. No. 890, H.D. 1, S.D. 1 is problematic for the reason that there were cross-migrations of people between Hawaii and the South Pacific island groups previous to 1778, so that persons of those island groups may conceivably have a basis to claim having "descended from races inhabiting the Hawaiian Islands previous to 1778." In that connection, it is also conceivable that persons descended from any race which may have been shipwrecked on Hawaii before 1778 could similarly claim that distinction.

Apparently, the language of the additional proviso is an attempt to resolve these "cross-migration" and "shipwrecked sailor" problems. However, the language, "whose descendants thereafter have continued to reside in Hawaii," is susceptible to the interpretation that such descendants must have continued to reside in Hawaii from 1778 until today in an unbroken chain.

In the recent past, Hawaii has exported talent to the mainland -- witness our teaching and engineering graduates from the University of Hawaii, among others. This is because Hawaii's economy is not sufficiently diverse to absorb our many talented young people -- witness our young people who desire employment in vocations such as marine design, nuclear physics, and electrical engineering have had to seek residence in other states. Your Committee feels that the descendants of these Hawaiian expatriates should not be deprived of their heritage because the residency of their predecessors in these islands may have been broken by economic circumstances.

Your Committee has amended the definition of "Hawaiian" to correct the weaknesses described above by adding the following to the proposed amendments of Article XII, Section 7 referred to above:

" . . . this means descendants of the aboriginal races of people which exercised sovereignty and subsisted in the Hawaiian Islands in 1778 and which races continued to reside there."

This definition was first proposed to your Committee by Mr. Abraham Piianaia, former chairman of the Hawaiian Homes Commission with reference to your Committee staff's inquiries made in connection with S.B. No. 152. Such definition would obviate the "cross-migration" and "shipwrecked sailor" problems. Also, such definition is supported by texts that subscribe to the aboriginal people inhabiting the Hawaiian Islands proximate to 1778 as people with definite governmental order, as primitive as that may have been by modern western standards. Modern scholarship also identified such race of people as culturally distinguishable from other Polynesian peoples. In that regard, present thinking is that the "cross-migration" between Hawaii and the South Pacific island groups must have ceased some 500 years before 1778 to allow the people of Hawaii to evolve as a culturally unique people.

Your Committee understands that the date "1778" was originally used in the Hawaiian Homes Commission Act to define "native Hawaiians" because that is the date of the arrival of Captain Cook and designates the earliest written account of the aboriginal people of Hawaii. Perhaps, the most authoritative text on ancient Hawaiians is one authored by David Malo, who was thought to have been born around 1793 and "came to be universally regarded as the great authority and repository of Hawaiian lore." See page viii of N. B. Emerson's "Biographical Sketch of David Malo" which prefaces David Malo's Hawaiian Antiquities (Moolelo Hawaii).

David Malo said, "[t]he word 'kalaimoku' related to the civil polity, or government, of the land." He continued:

"There were two strong forces, or parties, in the government. One, the kahuna who attended to the idol worship; the other, the kalaimoku, or king's chief councillor. These two were the ones who controlled the government and led its head, the king, as they thought best. If the head of the government declined to follow their advice, the government went to another, on account of the fault of its head, that is the king. The high priest, kahuna o na kii, controlled the king in matters of religion, haipule (he was keeper of the king's conscience). The kalaimoku, chief councillor or prime minister, guided him in regulating the affairs of administration and in all that related to the common people." See David Malo, Hawaiian Antiquities, pages 187-8.

E. S. C. Hardy, in his Ancient Hawaiian Civilization, describes the mass of the people who lived in this civil polity as follows:

"In the old days, the mass of the people were called makaainana. The word is interesting because it refers to the relationship of the people to the land. The makaainana were the people who lived on the land. Aina means land, but it has a deeper meaning because it is derived from the word meaning "to eat." The word actually means the land on which a person is born and from which he gets his living. The makaainana were the common people, the laboring masses, the cultivators of the soil, the fishermen, hunters, and craftsmen." See E. S. C. Hardy, Ancient Hawaiian Civilization, page 35.

Thus, what is obvious and is taught to Hawaiian school children about the ancient Hawaiians does have substantial documentary bases, Hawaiians being described as a race of people with a definite sovereignty or political order, which order was subscribed by the people who subsisted in these Hawaiian islands.

There is much that is said of theories respecting the unique culture of the ancient Hawaiians. An interesting item found in that regard describes their uniqueness as follows:

"The Hawaiians were the only branch of the Polynesians who built special temples of healing . . . (and) the only Polynesians who specialized in seeking medicinal virtues

of plants . . . Thus the Hawaiians had stepped over the border of ignorance and were on the threshold of the scientific investigation of disease." See quotation in Donald D. Mitchell's Resource Units in Hawaiian Culture, pages 192-3.

Finally, modern scholarship describes the governmental order of the Hawaiian people in 1778 as progressing in a certain line of development leading toward eventual centralization, as evidenced by the following quotation:

"In 1778, when Cook entered the scene, the Kingdom had not yet been established, but the course had been set and all the major chiefs were racing toward the same goal. Europeans have been given far too much credit for their part in bringing about a new social order in Hawaii; they were only the midwives. Without them the new births might have been delayed, but probably not for too long. Even before the newcomers could intervene, Hawaiian chiefs had already seized command of all the large islands and were reaching out for more. Centralization of authority was no special Hawaiian accomplishment -- Tongans, Mangaiaans, Mangarevans, Tahitians had done as much. The Hawaiian chiefs had finally succeeded in replacing substantially the traditional lineages with a tightly controlled administrative organization. All other Stratified societies had brought out fully all the political capabilities of the Traditional order. Hawaii had begun to introduce a new order and to move in a new direction." See Irving Goldman, Ancient Hawaiian Society, page 200.

Much of the research on ancient Hawaiian culture in this report is owed to your Committee's volunteer staff member, Mr. Clayton J. Wong, a student at the University of Hawaii, who obtained considerable assistance and guidance from Dr. Pauline Joerger of the University of Hawaii.

Accordingly, your Committee has amended the definitions of "Hawaiian" and "native Hawaiian" in H.B. No. 890, H.D. 1, S.D. 1 to avoid the "cross-migration," "shipwrecked sailor" and "chain of descendants" problems, and to conform to latest scholarship.

It should also be pointed out that your Committee heeded the caution indicated at page 3 of Committee on the Whole Report No. 13 of the delegates to the Constitutional Convention that the term "native Hawaiian" must be defined to follow the traditional definition found in the Hawaiian Homes Commission Act. However, we see no essential difference between that definition and that proposed by your Committee, except that the latter is found to be more precise and supported by academic evidence. For that reason, we have specifically indicated that the definition in the Hawaiian Homes Commission Act refers "identically" to the definition of "Hawaiian" which we have provided, except with respect to blood quantum.

4. The Trust Purpose: "Betterment of Conditions". A further essential element in the creation of a trust is the identification and description of its purpose. Your Committee is impressed with the description of the purpose of the Office of Hawaiian Affairs reflected in H.B. No. 890, H.D. 1, S.D. 1 utilizing the specific language "betterment of conditions" of native Hawaiians and Hawaiians. We totally agree that "betterment of conditions" is the legitimate state and public interest that provides substantial legitimacy to governmental activities and use of public resources envisioned by this bill.

A. Betterment of Conditions of Native Hawaiians. We note that "betterment of conditions" were the specific words used with reference to the public trust for "native Hawaiians" in the Hawaiian Homes Commission Act. Accordingly, that portion of the public trust in H.B. No. 890, H.D. 1, S.D. 1 addressed to "native Hawaiians" must look back to the original intent of the enactment of the Hawaiian Homes Commission Act. There, research indicates that the setting aside of lands under that Act originated as an effort to rehabilitate native Hawaiians, particularly full-blooded Hawaiians, whose numbers in 1920 had dwindled from an estimate of 142,650 to 22,500 persons.

The Congressional debate makes reference to the impoverished state of the native Hawaiians in 1920. Senator John Wise is quoted in Report No. 839 of the Committee on the Territories as saying, "The Hawaiian people are a farming people and fishermen, out-of-door people, and when they are frozen out of their land and driven into the cities they had to live in the cheapest places, tenements. That is one of the big reasons why the Hawaiian people are dying." Ex-secretary of the Interior Lane is quoted as saying, "[T]he natives of the islands, who are wards, I should say, and for whom in a sense we are trustees, are falling rapidly in numbers and many of them are in poverty."

B. Betterment of Conditions of Hawaiians. We also note that the delegates to the Constitutional Convention of 1978 addressed themselves similarly in expressing their concern for the conditions of the modern day Hawaiians at page 3 of Committee on the Whole Report No. 13:

"The present Hawaiian population is a young one. Approximately 50% of the total Hawaiian population is under the age of 20. The Hawaiian people today should be given the opportunity to provide for the betterment of the condition and well being of these young Hawaiians and to address the contemporary problems that Hawaiians face - crime, inadequate housing conditions, welfare rolls, and education. This proposal gives Hawaiians, a great and proud people, the opportunity and the means to do so. Your Committee feels that it is time that the Hawaiians have more impact on their future." (Emphasis added.)

Thus, the public purpose of that part of the public trust addressed to Hawaiians in H.B. No. 890, H.D. 1, S.D. 1 is confined to the betterment of their conditions.

C. Differentiation of the Public Trusts -- for Native Hawaiians and for Hawaiians. There appears to be some concern among some who profess to qualify by blood quantum as "native Hawaiian" that the public funds to be availed "pro rata" from the "lands and income" under the Admission Act must be utilized only to benefit "native Hawaiians," and not the more extensive group of "Hawaiians."

Your Committee notes that the Admission Act does expressly state that one of the five public trust purposes is the "betterment of the conditions of native Hawaiians." In that regard, a pro rata apportionment of such funds allocated for that public trust purpose must, by definition, be used for the "betterment of the conditions of native Hawaiians." Conversely, such pro rata portion of the section 5(f) public trust is not available for use by the Office of Hawaiian Affairs for the "betterment of conditions" of the larger group, "Hawaiians."

Your Committee observes, however, that such restriction need not apply to any other appropriation that the legislature may make. Also, as with any other public or charitable trust, the courts in the exercise of cy pres may appropriately utilize trust res for a similar trust purpose should that day come when the trust purpose, "betterment of conditions," is achieved.

D. Repository for Federal Reparation and Private Gifts. Your Committee understands that an additional trust purpose is for the Office of Hawaiian Affairs to function as a repository for federal reparation funds for Hawaiians as a class of native Americans and for private donations. We agree that such function will constitute a legitimate public purpose, but only where such assets are used for the "betterment of conditions" of Hawaiians and native Hawaiians. We are confident that the elected board of trustees will render sufficient scrutiny over proffered donations to ensure that conditions that may attend any gift will not require the promotion of private objectives to defeat the public trust with which the Office of Hawaiian Affairs is imposed.

5. Organization of the Office of Hawaiian Affairs and the Administration of the Trust Res. In Standing Committee Report No. 396 addressed to S.B. No. 152, S.D. 1, your Committee noted on page 13 an objection directed to "the dual chain of command attending the administrator and the board of trustees." We did so because S.B. No. 152, S.D. 1 statutorily created two separate lines of power; one belonging to the board and the other to the administrator.

We note that H.B. No. 890, H.D. 1, S.D. 1 is not attended by the same flaw in draftsmanship. The Committee on Housing and Hawaiian Homes is correct in stating in its Standing Committee Report No. 773 that article XII, section 6 mandates that "the board shall have the power to exercise control over the Office of Hawaiian Affairs through its executive officer, the administrator . . ." (Emphasis added.) The board is the basis of power and functions through the administrator.

A. Two-thirds Vote to Remove Administrator. We express concern with the organizational scheme of H.B. No. 890, H.D. 1, S.D. 1 which requires a two-thirds vote of the board of trustees to terminate the services of the administrator, although he is to be appointed by majority vote. We note that this can have the effect, in some instances, of diluting the power of the majority of the board of trustees. For example, if five members of the board of trustees should decide on a certain policy, an administrator who has the support of the four dissenting trustees may refuse to implement the majority policy confident in the fact that the board will not be able to muster the six votes necessary to terminate his appointment. Under those circumstances, the administrator may be likened to having two additional and irreversible votes on the nine-member board.

We agree with the Committee on Housing and Hawaiian Homes that the two-thirds vote requirement "would act as a safe-guard" for the administrator and strengthen his job security. We wonder whether such job security will not prove to unhinge the decision-making power of the majority of the board of trustees. Nonetheless, your Committee will defer to the wisdom of the Committee on Housing and Hawaiian Homes in the realization

that if such scheme should turn out to hamper the operation of the Office of Hawaiian Affairs in practice, appropriate exercise of the State's plenary power will allow future legislation to correct it.

B. Appointment of the Administrator Without Racial Preference and the Mancari Decision. Your Committee is in total agreement with the Committee on Housing and Hawaiian Homes at page 9 of Standing Committee Report No. 773 commenting on the deletion of "the requirement that the administrator be a Hawaiian" We agree that there is nothing to "justify this requirement."

However, we note that such a position may appear to contradict the United States Supreme Court's decision in Morton v. Mancari, 417 U.S. 535 (1974). In that case, non-Indian employees of the Bureau of Indian Affairs (BIA) brought a class action claiming that the employment preference for qualified Indians in the BIA provided by the Indian Organization Act of 1934 contravened the anti-discrimination provisions of the Equal Employment Opportunities Act of 1972, and deprived them of property rights without due process of law in violation of the Fifth Amendment. The United States Supreme Court held that such preference was not racial discrimination, saying:

"The preference, as applied, is granted to Indians not as a discrete racial group, but, rather, as members of quasi-sovereign tribal entities whose lives and activities are governed by the BIA in a unique fashion." 417 U.S. at 554.

The court, moreover, quoted the following from Board of County Comm'rs v. Seber, 318 U.S. 705, 717 (1943):

"In the exercise of the war and treaty powers, the United States overcame the Indians and took possession of their lands, sometimes by force, leaving them an uneducated, helpless and dependent people, needing protection against the selfishness of others and their own improvidence. Of necessity, the United States assumed the duty of furnishing that protection, and with it the authority to do all that was required to perform that obligation and to prepare the Indians to take their place as independent, qualified members of the modern body politic" 417 U.S. at 552.

Your Committee agrees with the position implicit in the refusal of the Committee on Housing and Hawaiian Homes to allow the preferential hire of the administrator; that implication being that the position of the administrator of the Office of Hawaiian Affairs does not fall within the ambit of Mancari. It is important to obtain the services of the best qualified administrator regardless of his racial origin. This is indicated by the requirement that the board must exercise its power "through . . . the administrator."

Similarly, your Committee notes that H.B. No. 890, H.D. 1, S.D. 1 does not require the creation of a staff based on racial preference. We think this is also wise, and will in the long run better fit into the scheme of a society seeking to perfect the "Rights of Man."

We would note, however, that the board of trustees of the Office of Hawaiian Affairs may conclude in a given situation that creation of job opportunities may be needed to help an isolated Hawaiian community. To the extent that such projects may, in the words of the United States Supreme Court, facilitate the preparation of such community of Hawaiians "to take their place as independent, qualified members of the modern body politic," they may fall within the permissible confines of Morton v. Mancari, supra.

C. Hiring of Staff. Your Committee notes an inconsistency in the language respecting the hiring and firing of the staff of the Office of Hawaiian Affairs. H.B. No. 890, H.D. 1, S.D. 1 provides on one hand that the administrator "may employ and retain . . . subject to the approval of the board," and on the other, states that they "shall serve at the pleasure of the administrator."

The scheme then places the hiring and firing power with the administrator, with the board having the power merely to approve or disapprove any such hire or termination.

This is an anomaly. It establishes the possibility of the majority of the board of trustees being unable to carry out its powers because its policies are contrary to that of the administrator and the staff will not implement the board's policies and the administrator refuses to discipline the staff.

It will be difficult enough as it is for such a majority not to be able to terminate the services of the administrator, lacking the requisite two-thirds vote. It should at least be able to get its policies implemented through other staff members.

For this reason, your Committee has amended H.B. No. 890, H.D. 1, S.D. 1 to provide that the staff "shall serve at the pleasure of the board."

D. Pro Rata Portion; Budget; Appropriation and Annual Reports. Your Committee is in agreement with that portion of H.B. No. 890, H.D.1, S.D. 1 which provides that the "pro rata portion" to be derived from the lands and proceeds of the Admission Act should be channeled through the normal process of legislative appropriation.

We had previously indicated in Standing Committee Report No. 396 with reference to S.B. 152, S.D. 1, that a system of accounting to the probate court with a copy submitted to the legislature "must be the minimum in terms of . . . accounting" It must be observed that the system securing financial accountability set out by H.B. No. 890, H.D. 1, S.D. 1 provides a more comprehensive process for budgeting, accounting and annual reports.

Your Committee made minor language changes to better define the process for biennium appropriations by the legislature. In that regard, we clarified that the Office of Hawaiian Affairs may not only "hold" the pro rata portion appropriated to that office, but may also use it in "betterment of conditions" of native Hawaiians.

The delegates to the Constitutional Convention were unable to present a definition of the "pro rata portion" for presentation to the voters for their ratification. Accordingly, such definition falls to the responsibility of the legislature. The choice of legislative appropriation is not only proper but allows wide flexibility for allocating the funds among the five trust purposes intended to be funded. Your Committee acknowledges the wisdom of providing for such flexibility as changing circumstances may well dictate the need to adjust to fluctuating need, merit and availability of funds.

E. Compensation. Your Committee notes that H.B. No. 890, H.D. 1, S.D. 1 has left the amount of the salary of the administrator blank. We had previously objected to the salary of \$32,000 for the administrator in Standing Committee Report No. 396 with reference to S.D. No. 152, S.D. 1 for the reason that, "the amount of work . . . the administrator will be required to do will depend in the main upon what the legislature will decide will be the pro rata allocation" Noting that H.B. No. 890, H.D. 1, S.D. 1 has been submitted to this Committee with the amount of the compensation of the administrator and the date of its commencement left blank, we have filled in these blanks by establishing a salary of \$15,000 per year to commence upon appointment.

We will next comment upon the compensation of the board of trustees. We acknowledge the statement made in Standing Committee Report No. 773 that "\$50.00 per day for each day's actual attendance" at meetings is "exactly what the board of education receives," and agree that it would be fair that the board of trustees of the Office of Hawaiian Affairs be similarly treated. We had previously objected to the \$75 per day figure that had been requested in S.B. No. 152, S.D. 1.

If it is fair that the board of trustees of the Office of Hawaiian Affairs be treated similarly with the board of education in the matter of compensation for daily attendance at meetings, the same sense of fairness must be accorded the matter of per diem personal expenses. H.B. No. 890, H.D. 1, S.D. 1 provides \$60 per day. Your Committee has amended that provision to read "as provided by section 78-15" to bring such per diem expense payment for the board equal to that for all other public officers and employees. Section 78-15 allows \$40 per day.

6. Election Process.

A. Article XVIII and "One-man, One-vote". By article XVIII, the legislature is mandated to "provide for the implementation of the amendments" relating to the Office of Hawaiian Affairs "on or before the first general election following ratification of the amendments."

The landmark United States Supreme Court decision of Baker v. Carr, 369 U.S. 186 (1962) requires that elective districts be apportioned on the basis of "one-man, one-vote." Your Committee's staff has researched the question of whether the Baker v. Carr principle applies to situations in the nature of the election of the board of trustees of the Office of Hawaiian Affairs.

First of all, such research reveals two cases from the Eighth Circuit Court of Appeals indicating that the one-man, one-vote principle is applicable via the equal protection clause of the Indian Civil Rights Act to tribal elections of Indian tribes. White Eagle v. One Feather, 478 F.2d 1311 (1973) and Daly v. U.S., 483 F.2d 700 (1973). There are, however, the decisions of the Tenth Circuit Court of Appeals in Groundhog v. Keeler,

442 F.2d 674 (1971) and Slattery v. Arapahoe Tribal Council, 453 F.2d 278 (1971) which held that the 1968 Indian Civil Rights Act imposed no restrictions on the Congress in legislating with respect to Indian tribes, and therefore, afforded no substantial basis for a claim of federal jurisdiction. As such, there is a division of decisional law addressed to Indian tribal elections.

Article XII, section 5 requires that "Oahu, Kauai, Maui, Molokai, and Hawaii" shall each "have one representative," and the total membership of the board of trustees must have at least nine members.

A further line of research reveals that the foregoing requirement of article XII, section 5 can be validly implemented by fashioning the election as follows: All nine seats are to be required to run at large, but the first five seats are to be allocated to the candidates with residences in each island obtaining the largest number of votes statewide. The remaining four seats are to be allocated to the four candidates with the largest number of votes statewide regardless of residency but to be based on statewide tabulations made only after the five "residency" attended seats have been allocated.

The guiding standard of the "one-man, one-vote" concept was stated in Reynold v. Sims, 377 U.S. 533 at 579 (1964):

"Whatever the means of accomplishment, the overriding objective must be substantial equality of population among various districts so that the vote of any citizen is approximately equal in weight to any other citizen." 377 U.S. at 579.

Applying that standard, courts have ruled that an otherwise undiscriminatory plan is not invalid because it uses geographical distribution "merely as a basis of residence for candidates, not for voting or representation." Fortson v. Dorsey, 379 U.S. 433, at 438; Dusch v. Davis, 387 U.S. 112 (1967).

B. Unitary Election. Your Committee has amended H.B. No. 890, H.D. 1 S.D. 1 with respect to its election procedure to provide a unitary single-ballot election. In this system, all candidates shall be placed on a single non-partisan ballot "arranged in alphabetical order by island or residency."

The tabulation of the votes to determine the winners of the election will be conducted in two parts. First, the ballots shall be counted to determine which among the candidates with residency for each of the islands of Oahu, Kauai, Maui, Molokai, and Hawaii received the most number of votes from their respective islands. Residency on the island of Lanai shall be treated as residency on the island of Maui. The candidates receiving the highest number of votes by such tabulation shall be designated the board member to represent each respective island.

Second, after excluding the names of the persons elected as board members for the respective islands, the ballots shall be tabulated again. This time, the tabulation shall be counted statewide and the four candidates receiving the largest number of votes shall be designated board members elected at large.

Your Committee has effectuated amendment to H.B. No. 890, H.D. 1, S.D. 1 in order that the election process may be simplified by the use of a single ballot. We note that the nomination and ballot process previously required in H.B. No. 890, H.D. 1, S.D. 1 was confusing in that it appeared on one hand to require a candidate to specify whether he was seeking an island or an at large seat, while simultaneously appearing to allow the same method of computation set out as amended. The amendment eliminates that confusion.

C. Filling of Vacancies. Your Committee has amended H.B. No. 890, H.D. 1, S.D. 1 to clarify the language respecting the filling of vacancies in the membership of the board of trustees. The language of H.B. No. 890, H.D. 1, S.D. 1 was addressed to the solving of problems that attend offices that require both the primary and general election and where vacancies occur in the interim between such elections. This is not necessary for the election of the board of trustees of the Office of Hawaiian Affairs as they are to be elected without a primary election and at a special election held at the time of the general election.

7. Remedies; Suits; Surcharge. Your Committee agrees with the statement in Standing Committee Report No. 773 that "the Office of Hawaiian Affairs is both a governmental agency and a nonprofit corporation."

A. Tort Liability. We also agree with the Committee on Housing and Hawaiian Homes that the Office of Hawaiian Affairs must be brought under the protection of the

State Tort Liability Act, which in part extends immunity from liability for "discretionary function or duty." See section 662-15(1), Hawaii Revised Statutes. The State Tort Liability Act also bars action against a state employee upon issuance of a judgment under chapter 662 against the State. See section 662-10, Hawaii Revised Statutes.

B. Surcharge. Your Committee concludes that H.B. No. 890, H.D. 1, S.D. 1 does not go far enough to clarify the liability of the board of trustees in matters of misuse of funds which, in the case of trustees, subjects the trustees to suits seeking surcharge for the funds so misused. In the case of charitable trusts, such suits brought against trustees are brought by the attorney general. We have amended H.B. No. 890, H.D. 1, S.D. 1 to provide for suits to be brought in matters of fiduciary duty against the board of trustees by any beneficiary of the public trust created and managed by the Office of Hawaiian Affairs. It is the intent that the office of the attorney general should be the legal office in which such suits should originate. However, in the event that any beneficiary should seek such suit through private counsel, he is allowed to do so.

C. Other Remedies. H.B. No. 890, H.D. 1, S.D. 1 has also been amended to provide that the Office of Hawaiian Affairs is subject to such other legal remedies as may be provided by law and by the common law.

D. Political Remedy. It should also be observed that similarly as with the immunity from liability accorded by the "discretionary function" exemption of the State Tort Liability Act, the board of trustees should be immune from liability on policy decisions that do not involve misapplication of funds or resources in breach of fiduciary duty. The proper forum for differences of opinion on policy matters is the election process for the board of trustees.

Also, your Committee did not feel it necessary to provide what is obvious by way of criminal liability. That is, that the board of trustees and the staff of the Office of Hawaiian Affairs are subject to such criminal actions that may be brought against them under the Hawaii Penal Code.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 890, H.D. 1, 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 H.B. No. 890, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 785 Judiciary on H.B. No. 1686

The purpose of this bill is to authorize the Hawaii Housing Authority (HHA) to raise funds from private investors through the sale of tax-exempt revenue bonds, and to make these funds available at affordable interest rates through mortgage lenders to persons and families of lower and moderate income to enable them to purchase a new or existing home or to convert their residential leasehold property to fee simple. The funds will be allocated by the HHA for use in four housing programs as follows:

1. The making of loans to mortgage lenders who will in turn make loans to persons of lower and moderate income (eligible loans);
2. The purchase of existing loans or mortgages from mortgage lenders who will then make eligible loans;
3. The making of advance commitments to purchase eligible loans from mortgage lenders;
4. The funding of eligible loans to be made through mortgage lenders.

Under previous law, these bonds would be counted as general obligation bonds of the State. However, the recently revised Constitution, Article VII, Section 13(8), as amended by the State Constitutional Convention of 1978, provides for the exclusion of bonds used to guarantee loans from the State indebtedness up to seven per cent of the principal amount of all outstanding general obligation bonds, if a reserve against such bonds is established. The exclusion of these contingent liabilities allows the State or counties to encourage special loan programs such as the one involved in H.B. No. 1686, H.D. 2, S.D. 1.

Your Committee finds that a major cause of the continuing housing problem in Hawaii is the lack of long term financing at affordable interest rates which hinders the purchase of residences particularly for first-time buyers, younger families, persons and families of lower and moderate income, and the elderly. Your Committee further finds that the concentration of ownership of fee simple title to significant areas of land in the hands of estates, trusts and large private landowners has contributed to the serious shortage

of single family residential fee simple property at reasonable prices. The provision of funds for the purchase of the fee simple title from a lessor by a lessee is consistent with the policy of this State to disperse ownership of fee simple title in single family residential property to as many people as possible.

Your Committee recognizes that one of the primary determinants of homeownership is the potential homeowner's ability to qualify for a mortgage loan based on the size of the monthly mortgage payment. Since the monthly mortgage payment is determined by the principal amount, the interest rate, and the length of the loan, it is important that these factors be addressed in offering home mortgage loans that are affordable to potential owner-occupant homeowners.

Your Committee amended H.B. No. 1686, H.D. 2, S.D. 1 to increase the amount of the initial authorization from \$50 million to \$200 million. Testimony was received from the Hawaii Housing Authority that this decrease in bond authorization stultifies the State Housing Loan Program by introducing an element of funding uncertainty likely to affect the way private mortgage lenders view this program. The HHA will hopefully be able to sell a bond issue of approximately \$50 million sometime this summer (provided the assistance of private mortgage lenders). Should the HHA "run out" of authorization before the year is up, there may be resistance to participating in the program (initially), since the mortgage lenders will have to invest some of their time, effort, and funds to developing or adjusting a computer servicing program, personnel adjustments (if any) or other such miscellaneous activities required when participating in a new mortgage loan program.

Your Committee heard testimony that the HHA has reviewed similar housing loan programs being implemented on the mainland and noticed the positive benefits on not only mortgage lending activity but the general economy as well, especially the construction industry. Where programs, such as the one proposed in H.B. No. 1686, H.D. 2, S.D. 1 have been in existence for some time, and where program continuity is assured, housing development and construction specifically targeted for purchase by lower and moderate income families has actually increased. This results, in part, from assuring that homes are marketable due to more buyers being qualified (by income) because of the availability of low interest rate mortgage loans. If this continuity is not assured, and is subject to starts and stops due to an inadequacy of authorization, Hawaii will never fully realize the potential economic and social benefits emanating from this program.

The \$200 million authorization has been arrived at by estimating the potential need for low interest rate mortgage funds for the purchase of new and existing homes and for the conversion of residential leasehold property to fee simple. The original authorization will further provide the HHA with adequate authorization to last until July 1, 1980. Testimony was also received which stated that the \$200 million was actually a minimum figure. By all estimates, this amount would be enough for perhaps 3,000 or 4,000 homes, while approximately 80,000 homes are necessary for present low and moderate income needs.

Your Committee also amended H.B. No. 1686, H.D. 2, S.D. 1 to amend the "buyback" provision in Section 5. Testimony was received from the HHA calling this provision unacceptable. The State Housing Loan Program is not a State development and construction program, it is a loan program designed to use the tax-exempt powers and authority of government, the expertise and services of mortgage lenders and primarily the housing stock of the private sector. Your Committee does not believe that the State should become a property owner of housing units developed and constructed by the private sector under the "buyback" provisions of H.B. No. 1686, H.D. 2, S.D. 1.

Therefore, the "buyback" provision has been amended to provide a one year period within which the borrower under this act can assign the obligation under the mortgage only to another "eligible borrower" unless the HHA finds unusual circumstances which would mandate waiver of this restriction.

Your Committee is not insensitive to those who wish to stabilize housing prices by curbing possible speculative abuse. To this end, the bill already requires that the housing unit financed by an eligible loan be "owner-occupied." Furthermore, careful drafting of the mortgage loan document can successfully curb abuses and yet not be unduly restrictive and impair the functioning of the program. While your Committee feels disincentives to speculators are necessary, this provision has problems, technical as well as those already mentioned, which after consultation with State bond counsel, make it unworkable.

H.B. No. 1686, H.D. 2, S.D. 1 was also amended to reduce the number of members on the advisory committee. Your Committee felt that six members were more than sufficient to handle advisory chores.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1686, H.D. 2, 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 H.B. No. 1686, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senator Saiki.

SCRep. 786 Legislative Management

Informing the Senate that S.C.R. Nos. 64 to 67, S.R. Nos. 297 to 302 and Stand. Com. Rep. Nos. 777 to 785 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 787 Human Resources on H.B. No. 612

The purpose of this bill is to remove the requirements from section 346-14 (Pertaining to general duties of the department of social services and housing) that the department establish, maintain and operate intermediate care facilities and care homes.

Your Committee finds that subsection (12) of section 346-14 may be construed to require the department of social services and housing to establish, maintain and operate intermediate care facilities and care homes. The private sector currently assumes the major role in operating these facilities.

Your Committee further finds that it is inappropriate to authorize the department of social services and housing to establish such facilities as provided in current statutes because the department of health is the agency responsible for licensing and regulating intermediate care facilities and care homes. The responsibility of the department of social services and housing is to assist residents of such facilities with the cost of health care services rather than to actually operate such facilities.

Your Committee finds that this bill eliminates possible misinterpretations as to the responsibility of the department of social services and housing with respect to intermediate care facilities and care homes. Your Committee notes that deleting reference to adult family boarding homes along with the other provisions of subsection (12) does not interfere with the department of social services' responsibility for the licensing of adult family boarding homes because this responsibility is covered under section 345-91 (Licenses; temporary permits).

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 612, 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. 788 Human Resources on H.B. No. 614

The purpose of this bill is to amend Section 576-30 (State Information Agency) to designate the Department of Social Services and Housing, rather than the Legislative Reference Bureau, as the State Information Agency responsible for duties which include compiling a list of addresses of State courts with vested authority under this Chapter (Uniform Reciprocal Enforcement Act), and transmitting the same to states with similar or adopted acts granting such courts jurisdiction to impose child support.

Your Committee finds that the Governor, by Executive Order, designated the Department of Social Services and Housing to implement the State Plan requirements of Title IV-D (Federal Child Support Enforcement Program), effective July 1, 1975. This Plan includes cooperation with other states; the maintenance of comprehensive records of collections and reimbursement and reciprocal enforcement of support from any state, territory, or possession of the United States and the District of Columbia.

Your Committee further finds that in 1953, the Legislative Reference Bureau became the State Information Agency when the Uniform Reciprocal Enforcement of Support Act was first enacted; at that time, the number of out-of-state complaints was relatively few. However, there has been such an increase in paperwork and referrals that the program now properly belongs under a line agency more directly connected with substantive programs.

This bill designates the Department of Social Services and Housing, rather than the Legislative Reference Bureau, as the State Information Agency. This would eliminate the unnecessary layer of processing, as well as improve program efficiency.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 614, 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. 789 Human Resources on H.B. No. 1631

The purpose of this bill is to amend Section 362-12, Hawaii Revised Statutes, to allow the Governor to designate a chairman of the Progressive Neighborhoods Task Force from among its members.

The Progressive Neighborhoods Task Force currently provides policy direction and guidance to the State's Progressive Neighborhoods Program. Your Committee finds that presently, the law provides for the task force chairman to be the state administrative director. Enactment of this bill would give the Governor more flexibility in designating a chairman from among the members of the task force.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1631, 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. 790 Human Resources on H.B. No. 1664

The purpose of this bill is to amend Section 347-4 (Vocational Rehabilitation of Blind) to incorporate the funding and service provisions of the Federal Vocational Rehabilitation Law.

Your Committee finds that the current definition of "vocational rehabilitation" under this Section is not consistent with the Federal Vocational Rehabilitation law or with Chapter 348 (relating to vocational rehabilitation of other physically and mentally handicapped persons). The federal law includes as vocational rehabilitation services several services not included in current State statutes. These services include reader services, rehabilitation teaching services, orientation and mobility services for the blind, sensory and other technological aids and devices, post-employment services, services to family members and "other goods and services which can reasonably be expected to benefit a handicapped individual in terms of employability". The federal law further establishes standards related to quality of services and personnel providing services.

This bill conforms current State Vocational Rehabilitation statutes to Federal Vocational Rehabilitation legislation by incorporating references to the Federal Vocational Rehabilitation Act of 1978, the Randolph-Sheppard Act and Chapter 348. Inclusion of the Randolph-Sheppard Act designates the Department of Social Services and Housing to be the State licensing agency for vending stands as required under the Federal Act and enables the Department to administer the program. The reference to Chapter 348 establishes a relationship between other current vocational rehabilitation services for the physically and mentally handicapped persons and the provisions of this bill.

Your Committee has made technical amendments without changing the substance of this bill.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 1664, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto, as H.B. No. 1664, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 791 Ecology, Environment and Recreation on H.B. No. 1355

The purpose of this bill is to amend Section 188-35, Hawaii Revised Statutes, to extend the current seaward boundary delineating the area of Pokai Bay within which the taking of "fish" is limited to hook-and-line, crab net and hand net methods to include the waters of the new Waianae Small Boat Harbor and the Waianae Regional Park.

Testimony before your Committee by the Department of Land and Natural Resources in support of this bill reveals that the inclusion of the Waianae Small Boat Harbor and Waianae Regional Park area under Section 188-35, Hawaii Revised Statutes, would essentially enlarge the area where, except for year-around pole-and-line fishing, crab netting, and hand netting for bait shrimp, other types of fishing methods including netting are prohibited. This will also eliminate any potential conflict among recreational pole-and-line fishermen and users of other types of fishing gear.

Your Committee finds that the setting aside of areas for pole-and-line fishing enhances and maximizes fishing opportunities for the ever increasing number of recreational anglers,

including our senior citizens and young people, who need to be provided with relatively safe and protected waters.

Your Committee further finds that the area proposed by the extended boundary would serve to protect such species as halalu and mullet from mass capture by large nets.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 1355, 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. 792 Ecology, Environment and Recreation on H.B. No. 1677

The purpose of this bill is to amend Section 188-31, Hawaii Revised Statutes by providing that permittees whose Aquarium Fish Permits are cancelled by the Board of Land and Natural Resources shall not be issued a new aquarium fish permit for a period of two years after the cancellation of the permit.

Testimony before your Committee from the Environmental Center, University of Hawaii, the Board of Land and Natural Resources, and the Waikiki Aquarium revealed support of this measure.

Your Committee finds that the sanction provided in the amendment to section 188-31, Hawaii Revised Statutes, is reasonable.

Your Committee has made nonsubstantive, technical amendments to the bill, renumbering section 2 as section 3, and adding a new section 2 indicating the effect of underscoring and bracketing in the bill.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 1677, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1677, S.D. 1.

Signed by all members of the Committee.

SCRep. 793 Legislative Management .

Informing the Senate that S.C.R. Nos. 68 to 72, S.R. Nos. 303 to 314 and Stand. Com. Rep. Nos. 787 to 792 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 794 Health on H.B. No. 1322

The purpose of this bill is to exclude minor providers of health services from coverage under the certificate of need law.

This bill will allow SHPDA to adopt rules to exclude "minor" providers with proposed expenditures of less than \$150,000 or changes which are deemed to have no substantial effect on the health care delivery system.

Testimony was received by SHPDA in favor of this bill because the intent of the certificate of need program is to cover major medical groups and the law presently goes beyond this intent.

Your Committee has amended the bill by simplifying the language in section (b). The intent of the bill has not been altered as a result of this language amendment.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1322, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1322, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 795 Consumer Protection and Commerce on H.B. No. 598

The purpose of this bill is to allow for biennial rather than annual licensing of securities salesmen and dealers.

Your Committee held a public hearing on the companion bill, S.B. No. 654, on February 21, 1979.

Under present law, securities salesmen and dealers are required to renew their licenses on an annual basis by the Department of Regulatory Agencies, Business Registration Division. Your Committee finds from the testimony presented that there is no compelling reason to continue the annual licensing requirement and that biennial licensing will permit the Business Registration Division to provide better service to the public in the other areas of their duties.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 598 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 796 Consumer Protection and Commerce on H.B. No. 1640

The purpose of this bill is to allow trade exhibitors and trade organizations to obtain a permit enabling them to import liquor for purposes of display and sampling at trade shows, food and beverage shows and international expositions.

Your Committee held a public hearing on the companion bill, S.B. No. 1749, on March 5, 1979.

Under present law, liquor importation is limited to only duly licensed wholesalers. This practice has placed trade show exhibitors in a disadvantageous position when attempting to introduce new products and brands of liquor into the State for display and sampling purposes.

The proposed bill would allow liquor to be imported for promotional purposes by the issuance of permits and under certain regulated conditions, including a \$2,000 value limit per exhibitor, adequate positing of bond and proper disposal and consumption of the liquor.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1640 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 797 Ways and Means on H.B. No. 4

The purpose of this bill is to appropriate moneys for the purpose of compensating persons pursuant to the Criminal Injuries Compensation Act under chapter 351, Hawaii Revised Statutes.

This bill appropriates \$245,802.36 for 306 compensation awards made by the Criminal Compensation Commission between December 16, 1977 and December 15, 1978. Your Committee approves these awards in recognition of the State's responsibility to protect its citizens and, upon its failure to do so, to compensate victims of crime for their injuries.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 4 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 798 Ways and Means on H.B. No. 286

The purpose of this bill is to correct errors in section 321-15.6, Hawaii Revised Statutes, relating to adult family boarding homes and care homes; licensing and regulation.

Your Committee finds that section 321-15.6 erroneously requires the department of health to coordinate with itself in training adult family boarding home operators. The actual intent of this section was to have the department of health coordinate with the department of social services and housing in these efforts. This bill makes this correction.

Your Committee further finds that "care home" is the appropriate term instead of "adult family boarding home" in section 321-15.6 because care homes are a function of the department of health, the principal agency treated in this section. Adult family boarding homes belong under chapter 346 (department of social services and housing). This bill makes the proper change of terms.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 286, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Yim.

SCRep. 799 Ways and Means on H.B. No. 455

The purpose of this bill is to amend section 214 of the Hawaiian Homes Commission Act, 1920, as amended, to (1) increase the amount that the department of Hawaiian homes is authorized to guarantee on loans, from \$18 million to \$21 million, to provide for projected requirements for its housing and agricultural programs for the biennium 1979-81; and (2) include loans to lessees under section 215 of the Act and other loans made to lessees by a government agency or private lending institution under this guarantee provision.

Your Committee believes that the present loan guarantee ceiling of \$18 million is inadequate for the biennium 1979-81 and that the \$3 million increase to the guarantee ceiling will enable the department of Hawaiian homes to meet its projected requirements.

Your Committee has amended this bill by making certain nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 455, 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. 455, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 800 Ways and Means on H.B. No. 577

The purpose of this bill is to delete a provision from the present law requiring the public defender's office to pay for filing fees, appeal bonds, and other court costs for indigent criminal defendants.

Your Committee finds that the payment of these court costs by the public defender's office is a superfluous requirement as such fees can be waived by the courts pursuant to chapter 607, Hawaii Revised Statutes, upon a showing of indigency. In addition, this requirement provides for the State to pay itself at considerable expense in terms of administrative time required to budget and process payment for such costs.

Your Committee has amended this bill by making nonsubstantive, technical amendments by adding a new section 2 on the effect of bracketing in the bill, and by renumbering section 2 as section 3.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 577, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 577, S.D. 1.

Signed by all members of the Committee except Senator Yim.

SCRep. 801 Ways and Means on H.B. No. 588

The purpose of this bill is to allow the attorney general, in addition to the public prosecutor or county attorney, to prosecute all criminal actions in violation of the Hawaii Employment Security Law, its rules, and regulations.

Your Committee finds that several sections of the Hawaii Employment Security Law provide for penalties for criminal violations of the law and its regulations by claimants, employers, or employees, or members of the department of labor and industrial relations.

At present, such penalties are imposed through prosecution by the public prosecutor or county attorney of the county in which the employer has a place of business or the violator resides. Prosecution under this system has generally been successful, but it has also received low priority for prosecution, which in turn has limited the scope and timeliness of such actions. Allowing a deputy attorney general to be responsible for handling employment security law prosecutions would aid in ensuring that violations would receive proper attention.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 588, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 802 Ways and Means on H.B. No. 600

The purpose of this bill is to increase the various recording fees for partnerships.

The administrative cost of providing this recordation service currently exceeds the revenue derived from the present recordation fee. This bill will bring about a balance between such costs and revenues.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 600, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Yim.

SCRep. 803 Ways and Means on H.B. No. 602

The purpose of this bill is to adjust regulatory and licensing fees relative to financial institutions.

Your Committee finds that existing fees for certain financial institution regulatory services, including those for applications for authority to organize, relocate, establish branch offices, and similar types of fees, are insufficient to meet the costs thereof. The burden of paying for the costs of such services is therefore presently falling upon the general public, whereas such costs should be assumed by the financial institutions themselves. Accordingly, this bill seeks to adjust regulatory and licensing fees of financial institutions so that they are more in line with the costs thereof.

Your Committee has made nonsubstantive, technical amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 602, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 602, S.D. 2.

Signed by all members of the Committee except Senators Carpenter, Yim and Yee.

SCRep. 804 Ways and Means on H.B. No. 603

The purpose of this bill is to increase the pharmacist examination fee from \$37.50 to \$50.

Your Committee agrees that the increase in examination fees is necessary to defray the cost of the examination and grading services of the National Association of Boards of Pharmacy as well as the administrative costs of the department of regulatory agencies.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 603, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Yim.

SCRep. 805 Ways and Means on H.B. No. 616

The purpose of this bill is to delete certain provisions relating to the highway supplies and equipment account previously utilized by the land transportation facilities division.

Your Committee finds that section 264-27 is obsolete. Your Committee has made nonsubstantive, technical amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 616, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 616, S.D. 2.

Signed by all members of the Committee.

SCRep. 806 (Majority) Ways and Means on H.B. No. 732

The purpose of this bill is to increase the maximum capital loan limit from \$50,000 to \$100,000.

Your Committee concurs with the findings of your Committee on Economic Development that increasing the maximum loan for the Hawaii Capital Loan Program from \$50,000 to \$100,000 would be in line with the increase in the cost of doing business in Hawaii and will provide the necessary flexibility to the program in assisting small businesses.

Your Committee has amended the bill to provide that loans are to bear simple interest at a rate of no less than two per cent below the average prime interest rate as determined by the board of governors of the Federal Reserve System at the time the loan is made rather than at the seven and one-half per cent a year rate currently established by statutes.

Your Committee believes that the interest rate tied to a formula rather than a fixed rate is better able to adjust to the fluctuating cost of credit. In addition, since the loan program serves businesses unable to otherwise obtain credit, a loan at an interest rate below the prime rate should provide substantial assistance to such businesses.

Your Committee has further amended the bill by reducing from five to two years, the time period that the director may defer the first installment in the principal of a loan. Your Committee believes that a five-year deferral is excessive and that limiting the director's discretion to defer payments for two years will adequately serve the interests of the businesses seeking such deferrals.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 732, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 732, S.D. 2.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 807 Ways and Means on H.B. No. 737

The purpose of this bill is to provide for the confidentiality of federal tax returns and information required to be filed with the state inheritance and estate tax return.

Testimony submitted by the Department of Taxation on the companion bill S.B. No. 675, indicates that this bill is necessary to meet the requirements of the federal tax laws and to correct an inadvertent omission from Act 172, Session Laws of Hawaii 1978, providing for confidentiality of federal income tax returns.

Your Committee has amended the bill by renumbering section 2 as section 3 and by inserting a new section 2 indicating the effect of underscoring in the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 737, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 737, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 808 Ways and Means on H.B. No. 738

The purpose of this bill is to transfer the responsibility of valuation of future or contingent or limited property interests for the inheritance and estate tax from the insurance commissioner to the director of taxation by substituting actuarial tables used by the federal Internal Revenue Service as the valuation method.

Testimony was received on the companion S.B. No. 676 from the Tax Foundation of Hawaii and the Department of Taxation commenting favorably on this bill.

Your Committee has amended this bill by renumbering section 2 as section 3 and by adding a new section 2 indicating the effect of underscoring and bracketing in the bill and by making nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 738, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 738, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 809 Ways and Means on H.B. No. 739

The purpose of this bill is to give legislative approval to the reimbursable clearing account method used by the department of transportation.

Your Committee finds that presently the land transportation facilities division of the department of transportation operates three major reimbursable clearing accounts. The clearing account method has been instituted and utilized by the department because a large part of this division's expenditures is project funded. This involved the funding of approximately 600 employees, who work on one or more projects in a pay period and other related costs. If the department of transportation were to wait for the semimonthly timesheets to determine the exact fund and appropriation accounts out of which these employees are to be paid, it would be virtually impossible to pay these employees on schedule. In addition, without a clearing account, it would be extremely difficult or impossible to allocate indirect costs to projects.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 739, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 810 Ways and Means on H.B. No. 1200

The purpose of this bill is to continue the exemption and exclusion from Hawaii general excise and use taxes for activities in and income derived from the conduct of interstate and foreign business, to the extent such activities and income were treated as exempt by the State of Hawaii on April 1, 1978. This bill would continue the tax status of interstate business as it existed prior to the decisions of the United States Supreme Court in Department of Revenue of Washington v. Association of Washington Stevedoring Companies, 55 L.Ed.2d. 682 (1978); Complete Auto Transit, Inc. v. Brady, 430 U.S. 274 (1977); and Michelin Tire Corporation v. Wages, 423 U.S. 276 (1976).

Your Committee agrees with and incorporates herein the findings of your Committee on Transportation.

Your Committee made nonsubstantive, technical amendments to the bill to conform this bill with the statutory revision bill and to conform this bill to appropriate drafting style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1200, 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. 1200, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Yim.

SCRep. 811 Ways and Means on H.B. No. 1338

The purpose of this bill is to eliminate all fees charged to the public for admission to the Waikiki Aquarium. The bill also authorizes the Aquarium to accept donations through a special fund and to utilize moneys so received for the maintenance and operation of the Aquarium.

This bill will enable the Waikiki Aquarium to solicit donations through a special fund and to some extent become partially self-supporting. Your Committee agrees with the conclusions of your Committee on Ecology, Environment and Recreation that if the current 25¢ fee were eliminated, donations to the Aquarium would probably exceed what is currently generated (\$35,000 a year). The increased moneys would result in expanded expenditures for improved facilities and educational programs.

Your Committee is in accord with the amendments made by your Committee on Ecology, Environment and Recreation but have made several nonsubstantive, technical, and language amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1338, 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. 1338, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 812 Ways and Means on H.B. No. 1473

The purpose of this bill is to increase the annual grant to the Hawaii Wing, Civil Air Patrol, from \$75,000 to \$100,000 to carry on the operations and defray the expenses of the wing; provided that not less than \$3,000 be allocated to each Civil Air Patrol unit in the State that meets minimum requirements established by the wing headquarters.

Your Committee finds that under the present statute, a grant of \$75,000 is awarded annually to the Hawaii Wing, Civil Air Patrol, with provisions that not less than \$3,000 be allocated to each Civil Air Patrol unit outside the city and county of Honolulu. Presently, units on the neighbor islands are receiving the full \$3,000 while those units on Oahu are receiving less. Your Committee feels that this practice is inequitable and agrees that each Civil Air Patrol unit should be funded equally, without a minimum requirement as established by the wing headquarters.

This bill further provides general conditions and review before money can be granted to the Civil Air Patrol, and provides for the allotment of funds, and monitoring and evaluating of grants of funds.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1473, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 813 Ways and Means on H.B. No. 1645

The purpose of this bill is to authorize the department of transportation to assess and to collect all expenses incurred incidental to taking custody and disposing of an abandoned vessel, and to clarify provisions relating to the disposition of proceeds derived from the sale of abandoned vessels.

Your Committee on Transportation amended the bill to allow the owner five years after the sale of the vessel to file a claim for the balance of the proceeds with the department of budget and finance. It was felt that the owner should be entitled to the same period of time to make such a claim to the State. This Committee is in agreement with that change.

Your Committee has made nonsubstantive, technical amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1645, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1645, S.D. 2.

Signed by all members of the Committee.

SCRep. 814 Ways and Means on H.B. No. 1649

The purpose of this bill is to clarify the authority of the comptroller, if satisfied with the adequacy of related internal controls and audit trails, to issue warrants for original warrant vouchers without accompanying original bills for medicaid payments and to approve the issuance of warrants in this manner in the comptroller's discretion.

Testimony received from the department of accounting and general services on the companion bill, S.B. No. 1316, recommends favorable action on this bill. The department noted that without this discretion, medical payments to providers would be made with no assurance from the comptroller's office as to the protection of the State's funds consistent with controls exercised on other state expenditures.

Your Committee has amended this bill by renumbering section 2 as section 3 and adding a new section 2 to set forth the effect of underscoring and bracketing in the bill. A minor change in punctuation was also made.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1649, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1649, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 815 Ways and Means on H.B. No. 1647

The purpose of this bill is to raise the maximum limit for the University of Hawaii research and training fund and to allow expenditures from the fund for indirect costs connected with research and training contracts and grants.

Your Committee agrees with the findings of your Committee on Higher Education in Standing Committee Report No. 771.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1647, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Yim.

SCRep. 816 Ways and Means on H.B. No. 1673

The purpose of this bill is to amend the requirement that all appropriations, fees, charges, and other moneys collected by the Hawaii Institute for Management and Analysis in Government (HIMAG) be deposited into a revolving fund. The bill provides that general fund appropriations need not be deposited into the revolving fund. Revenues from donations and gifts, however, must continue to be deposited into the revolving fund.

The revolving fund was created in 1974 in anticipation that significant nongeneral fund revenues would be realized by HIMAG. This has not been the case. General fund appropriations have been continuously required for HIMAG and constitute the primary source of

its funding. Thus, the administration has justified this bill because there is no benefit gained by having general fund appropriations deposited into a revolving fund and the source of funding would be more readily identified without the current unnecessary circulatory funding means.

In addition, your Committee agrees with the administration's contention that HIMAG will continue to seek other sources of revenues. Thus, the continued requirement that donations and gifts be deposited into a revolving fund is maintained.

Your Committee has made various nonsubstantive, technical amendments by correcting typographical and drafting errors.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1673, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1673, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Yim.

SCRep. 817 Ways and Means on H.B. No. 1687

The purpose of this bill is to amend section 247-2, Hawaii Revised Statutes, to apply the basis and rate of tax to a lease or sublease whose full unexpired term is of five years or more. Under present law, the provisions apply to leases or subleases with unexpired terms of ten years or more.

In a public hearing before the Housing and Hawaiian Homes Committee on the senate companion bill to H.B. No. 1687, Mr. George Freitas, director of taxation, gave testimony which indicated the need for the amendment to better furnish essential market data for the assessment of real properties.

Your Committee has renumbered section 2 of the bill to section 3 and added a new section 2 stating the effect of bracketing and underscoring in the bill, and made other nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1687, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1687, S.D. 1.

Signed by all members of the Committee.

SCRep. 818 Legislative Management

Informing the Senate that S.R. Nos. 315 to 322 and Stand. Com. Rep. Nos. 794 to 817 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 819 Human Resources on S.C.R. No. 48

The purpose of this concurrent resolution is to request the appropriate Senate standing committees to review the programs and activities of the Office of Children and Youth to assess the compatibility of the programs and activities of the Office with the provisions of the statutes governing the Office, the adequacy of funding resources to enable achievement of the goals and objectives for children and youth in an effective and efficient manner, and the need for amendments to the statutes governing the Office; and to submit a report of their findings and recommendations no later than twenty days prior to the convening of the Regular Session of 1980.

Your Committee finds that the Office of Children and Youth was established by Act 207, SLH 1976, to improve coordination and to ensure the effectiveness of children and youth programs in the State. The Office has been given a number of responsibilities relating to programs and activities for children and youth and has identified several areas requiring review and action by the legislature. Your Committee feels that these priority concerns may require legislative action in the immediate future and therefore, it is timely for a review to reascertain the original intent of Act 207 and to redetermine and/or reinforce legislative directions for the office's operations.

Your Committee has amended this concurrent resolution to provide for the appropriate House and Senate standing committees to conduct this review.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R.

No. 48, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.C.R. No. 48, S.D. 1.

Signed by all members of the Committee.

SCRep. 820 Ways and Means on H.B. No. 3

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.

Claims for refunds, reimbursements, or other payments, as a condition to their being considered by the legislature, are filed with the director of finance. The director then refers claims to the agency concerned for investigation and recommendation. All claims and supporting data are then transmitted to the legislature.

Your Committee has reviewed the claims set forth in the transmittals, including those which were disallowed by the executive departments. Those claims which your Committee recommends for relief are incorporated into this bill.

The bill, as amended by your Committee, appropriates the total sum of \$1,017,860.43 representing 49 claims under section 37-77 and chapter 662, Hawaii Revised Statutes. Your Committee recommends that payment of these individual claims be authorized by the legislature.

Your Committee is concerned about the growing number of miscellaneous claims being forwarded to the legislature by the various departments. It is apparent from a review of many of the claims that there is a need for the departments processing such claims to establish guidelines and policies to assure that the claims are properly scrutinized and processed. Standards must be developed to ensure that the State does not play the role of insurer for any damage suffered by an individual unless the claim is clearly meritorious.

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

Signed by all members of the Committee.

SCRep. 821 Ways and Means on H.B. No. 638

The purpose of this bill is to provide for the celebration of the eightieth anniversary of the arrival of the first Okinawan people in Hawaii. It creates a temporary commission, whose members are appointed by the Governor, to plan and coordinate the celebration. The Office of the Governor shall assist and support the commission to achieve the purposes of this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 638, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 822 Ways and Means on H.B. No. 740

The purpose of this bill is to repeal portions of the law governing expenditure of funds in the state highway fund that are no longer applicable, to clarify portions of this law that are ambiguous, and to repeal the provision authorizing state highway funds for the use of the interdepartmental control commission.

Your Committee finds that the statutory authority governing expenditures out of the state highway fund is contained in section 248-9, Hawaii Revised Statutes, providing that moneys in the state highway fund be expended according to certain priorities. The department of transportation has testified that the payments covered by subsection (a) relating to payment of interest on the principal of county bonds issued for highway purposes prior to January 1, 1945, and subsection (b) relating to the payment of interest of the principal of highway revenue bonds issued pursuant to Act 249, Session Laws of Hawaii 1955, are no longer required, since all of the county bonds have matured and the highway revenue bonds were refunded in 1967.

The department also has noted that subsection (c) has been amended many times and that some of the language of this subsection is ambiguous, and other portions have been

superseded. The department has also testified that there is a question regarding the necessity for this section since expenditures from the fund now require appropriations or authorizations from the legislature which supersedes this section (see chapter 37, Hawaii Revised Statutes).

Your Committee finds that there should be statutory authority governing the expenditure of funds from the state highway fund, as provided in this bill, which would permit expenditures for (1) maintenance, (2) acquisition, planning, design, construction and reconstruction of the state highway system and bikeways, and (3) reimbursement to the general fund for interest on and principal of general obligation bonds where such bonds are designated to be reimbursable out of the special fund.

Your Committee further finds that section 248-11, Hawaii Revised Statutes, which authorizes state highway funds for the interdepartmental transportation control commission is no longer needed because the commission has been repealed by Act 179, Session Laws of Hawaii 1975.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 740, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 823 Ways and Means on H.B. No. 866

The purpose of this bill is to remove the six per cent ceiling on interest paid on revenue bonds of the county.

Under present law, revenue bonds sold by county governments cannot have an interest rate exceeding six per cent per year. In today's market, such a limitation makes it virtually impossible to sell such bonds.

Your Committee agrees that the deletion of the six per cent statutory limit on the maximum amount of interest will serve to put the counties in a better position to sell their bonds.

Your Committee has made nonsubstantive, technical amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 866, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 866, S.D. 1.

Signed by all members of the Committee.

SCRep. 824 Ways and Means on H.B. No. 1127

The purpose of this bill is to authorize state-operated hospitals to accept credit cards for charges.

Your Committee recognizes that credit card transactions are currently a significant source of bill collection, and that the department of health is in favor of the usage of credit cards for bill collections in state hospitals.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1127, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Yee.

SCRep. 825 Ways and Means on H.B. No. 1654

The purpose of this bill is to clarify the application of payments under the aquaculture loan program.

The existing law is contradictory in that section 219-5(7), Hawaii Revised Statutes, requires that all moneys collected are deposited in the aquaculture loan revolving fund, while section 219-4, Hawaii Revised Statutes, requires that interest and fees are deposited into the reserve fund and payments received on account of principal be deposited into the revolving fund.

This bill will provide for the depositing of fees and interest into the reserve fund to the extent needed to carry on the operations of the loan program with any surplus transferred to the revolving fund at the discretion of the department and the depositing of payments on account of principal into the revolving fund.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1654, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 826 Ways and Means on H.B. No. 1695

The purpose of this bill is to establish the "Scandinavian Centennial Commission" which shall have charge of all arrangements for the commemoration of the 100th anniversary of the first large group of Scandinavians to Hawaii.

Your Committee supports the establishment of the Scandinavian Centennial Commission.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1695, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 827 Consumer Protection and Commerce on H.B. No. 158

The purpose of this bill is to modify the qualifications required for the licensing of barbers and the certification of apprentice barbers.

The bill deletes qualifications which are not reasonably related to the practice of barbering. The bill also shortens the apprenticeship requirement from eighteen to six months.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 158, 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. 828 Consumer Protection and Commerce on H.B. No. 160

The purpose of this bill is to lower the required initial trust corpus minimum reserve used to secure enforcement of the interindemnity agreement as set forth in Chapter 435E, Hawaii Revised Statutes, from \$5,000,000 to \$3,000,000.

Your Committee held a public hearing on the companion bill, S.B. No. 247, on March 5, 1979. Testimony in favor was received by various medical groups, but one in particular worth citing is the one by the Wyatt Company, an actuary and employee benefit group.

Their findings concluded that a fund of a minimum reserve of \$3,000,000 and a contribution of \$20,000 per doctor from the number of doctors presently contributing to the fund would adequately cover the present average medical malpractice claim per year in Hawaii.

The report also noted the previous amount of \$5,000,000 established by the Legislature was based on a California law without regard to the differences between California and Hawaii. These differences involved California's medical malpractice average claim which is 3.6 times that of Hawaii's and the frequency of claims which is 1.2 times more than Hawaii's per 100 doctors. It is also important to note that California has 32 times more doctors than Hawaii.

Your Committee found that the trust fund has not been operative due to the inability to secure the minimum amount required. In light of the Wyatt report, we find that lowering the minimum required would not jeopardize the concerns and needs of the people in the State of Hawaii, and more importantly, will activate the trust fund to further provide safeguards for both the physicians and concerns of the people in the State of Hawaii.

This bill also allows the Department of Regulatory Agencies to investigate and to verify the minimum requirement of the fund in order to insure safeguards to patients and citizens in this State.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 160, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 829 Consumer Protection and Commerce on H.B. No. 511

The purpose of this bill is to delete the definition of distributor branch and the requirements that apply to distributor branches. This bill is designed to correct an inequity in the law whereby a distributor must also pay for a distributor branch license although the distributor branch is located at the same address as the distributor.

Your Committee is in agreement that an inequity exists in the law. The Committee, however, has decided to amend the definition so as to retain the term distributor branch in this section but at the same time alleviating the inequity. The new definition in part defines a distributor branch as a branch not at the same address as the distributor.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 511, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 511, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ushijima, Yim and Yee.

SCRep. 830 Consumer Protection and Commerce on H. B. No. 531

The purpose of this bill is to increase the maximum estimated cost currently allowed of a building that is planned and allowed to be constructed without first obtaining a certification of an architect or engineer.

Present law provides that a stamp of certification is required on the plans for a proposed building if it is estimated to cost \$35,000 or more for a single-story building and \$30,000 or more for a two-story building. This bill would raise these exemption thresholds to \$50,000 and \$45,000, respectively.

Your Committee finds that the increased limits reflect the higher costs of construction that currently prevail as compared to the costs of construction at the time the present limits were set. By raising the limits, the original intent of the exemption, that structures of a certain size and cost do not require certification, is preserved. Your Committee also finds that the safety aspects of uncertified buildings will be adequately regulated by the building codes of the various counties.

Your Committee has amended this bill to include residential dwellings used exclusively by its owner as his residence, as an exemption to the provisions of Chapter 464 and to provide them with the increased exemption limits. Other structures would retain the present limits. It is also provided that the applicability of the residential dwelling exemption shall be recorded at the Bureau of Conveyances.

Your Committee has further amended this bill by renumbering Section 2 as 3 and adding a new Section 2 stating the effects of the underscoring in the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 531, as amended herein, and recommends that it pass Second Reading in the form attached hereto to H.B. No. 531, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chong, Carpenter, Ushijima, Yim and Yee.

SCRep. 831 Consumer Protection and Commerce on H.B. No. 595

The purpose of this bill is to provide the motor vehicle insurance commissioner with the specific authority to establish standards for the prompt, fair and equitable disposition of all claims arising out of motor vehicle accidents.

Your Committee held a public hearing on the companion bill, S.B. No. 651, on February 24, 1979.

Under present law, Section 294-37(2) and 431-31(c), Hawaii Revised Statutes, assigns to the motor vehicle insurance commissioner all the powers and duties with respect to motor vehicle insurance that have been delegated to the Director of Regulatory Agencies, including the promulgation, amending and repeal of regulations. However, according to an Attorney General letter opinion dated February 21, 1979, there is an uncertainty as to whether statutory authority exists to set standards for the prompt, fair and equitable settlement of all motor vehicle accident claims. Further, the commissioner's jurisdictional authority in this area has in the past been questioned regarding claims based on tort

liability rather than no-fault insurance because the above mentioned statutes deal only with motor vehicle insurance and are silent as to tort claims arising out of motor vehicle accidents.

Your Committee feels that this standard setting authority is an integral part of the function of the commissioner in the discharge of his duties relating to claims settlement arising from all motor vehicle accidents. Your Committee therefore finds itself in agreement with the intent of this bill to clarify the existing law and to expressly authorize the commissioner to ensure that claims arising from motor vehicle accidents be disposed of in a prompt, fair and equitable manner by providing authorization to promulgate, amend and repeal regulations relating thereto.

Your Committee has amended the bill by replacing the words "make" and "promulgate" with the term "adopt" in order to conform to the provisions of Chapter 91. A new Section 2 was added stating the effect of the bracketing and underscoring in the bill and Section 2 was renumbered as Section 3.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 595, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 595, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 832 Consumer Protection and Commerce on H.B. No. 596

The purpose of this bill is to clarify the liability insurance requirements of persons who offer mopeds for rent or lease. Currently the liability limits are not to be less than \$10,000 per person and \$20,000 per accident. Your Committee is in agreement that there is confusion as to whether this law covers limits for bodily injury only or for both bodily injury and property damage. This bill clarifies the limits at \$25,000 for bodily injury per occurrence and \$5,000 for property damage per occurrence.

Your Committee held a public hearing on the companion bill, S.B. 652, on February 24, 1979.

Your Committee has amended this bill by deleting language pertaining to agreements among insurers for certain applicants unable to procure insurance through ordinary methods since agreements for equitable apportionment are already in effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 596, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 596, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ushijima, Yim and Yee.

SCRep. 833 Consumer Protection and Commerce on H.B. No. 599

The purpose of this bill is to modify the powers and requirements of the Board of Registration of Professional Engineers, Architects, and Surveyors (Board) in proceedings for the suspension or revocation of a certificate.

Your Committee held a public hearing on the companion bill, S.B. No. 655, on February 23, 1979.

Present law provides that the Board must hear and determine within three months charges that have been preferred against any licensee and that a unanimous vote of the Board is necessary to find an accused guilty of the charges preferred.

Your Committee finds that the Board often requires more than three months to fully investigate a charge against a respondent and that the deletion of the requirement for an unanimous vote conforms this Board with other boards and commissions. Your Committee also finds that the inclusion of the same procedural powers as those of a circuit court will make a hearing of the Board a more effective and equitable proceeding.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 599 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 834 Consumer Protection and Commerce on H.B. 601

The purpose of this bill is to amend Section 458-13 to conform with Federal Trade Commission Rule (16 CFR 456) allowing advertising by ophthalmologists, optometrists and dispensing opticians.

Your Committee held a hearing on the companion bill, S.B. No. 220, on February 14, 1979.

Your Committee finds that the Federal Trade Commission has adopted a trade regulation which preempts state and local laws from prohibiting dispensing opticians, optometrists, and ophthalmologists from advertising their prices or availability of their services.

Your Committee has amended this bill by renumbering section 2 as section 3 and inserting a new section 2 indicating the effect of the bracketing in this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 601, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 601, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ushijima, Yim and Yee.

SCRep. 835 Consumer Protection and Commerce on H.B. No. 604

The purpose of this bill is to conform the language used in Hawaii's Medical Malpractice Law to that of the annual statement used by insurers.

Present law defines the term "net direct premiums" by referring directly to the annual statement used by insurers and the language therein. Said annual statement has been amended, rendering the definition of net direct premiums inconsistent with the intent of the Medical Malpractice Underwriting Plan.

Your Committee finds that this bill would eliminate this apparent inconsistency in the law and will conform the definition of net direct premiums to that which was originally intended.

Your Committee has amended this bill by renumbering Section 2 to Section 3 and adding a new Section stating the effect of the bracketing and underscoring in the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 604, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 604, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ushijima, Yim and Yee.

SCRep. 836 Consumer Protection and Commerce on H.B. No. 734

The purpose of this bill is to provide a procedure by which prompt payment of valid claims against an insolvent life or disability insurer can be made.

Your Committee held a public hearing on the companion bill, S.B. No. 661, on March 5, 1979.

Presently, there is no provision in the insurance law which deals with consumer claims against an insolvent insurer. This bill creates a fund by assessing all life and disability insurers in the state on the basis of their premium writings to guarantee the contractual obligations of an insolvent insurer. Such assessments and establishment of a fund are to be made only after an insolvency occurs.

Your Committee finds from the testimony presented that although there have not been any insolvencies with respect to life or disability insurers in this state, this bill will fulfill an important and necessary purpose should that event occur.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 734 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 Yee.

SCRep. 837 Consumer Protection and Commerce on H.B. No. 931

The purpose of this bill is to amend section 440-9, Hawaii Revised Statutes, to permit the staging of boxing contests on Sundays.

Your Committee held a public hearing on the companion bill, S.B. 1116, on February 26, 1979.

Present law prohibits boxing contests from being held on Sundays. Your Committee feels that the present law no longer serves its original purpose and that allowing boxing contests to take place on Sundays will put boxing on a parity with other sports which are now enjoyed by consumers on Sundays.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 931 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 Ushijima, Yim and Yee.

SCRep. 838 Consumer Protection and Commerce on H.B. No. 936

The purpose of this bill is to amend the definition of "owner" under Section 294-2(13), Hawaii Revised Statutes, to include those lessees and debtors under leases or security agreements without an option to purchase.

Under present law, an owner is defined for purposes of the no-fault law to include lessees of motor vehicles but only if the lease agreement includes an option to purchase. This bill would expand that definition to include all lessees regardless of options to purchase so long as the lease is of at least one year's duration.

Your Committee finds that the majority of motor vehicle leases do not have an option to purchase clause included because of the effect of tax laws. Under the definition of owner in Section 294-2(13), the lessor could conceivably be construed to be responsible for carrying the necessary motor vehicle insurance notwithstanding the terms of the lease which require the lessee to obtain insurance and the fact that the lessee has exclusive possession, control and responsibility for the vehicle. Your Committee feels that this bill will effectively clarify this uncertainty.

Your Committee also finds that the intent of restricting the scope of the definition to leases of at least one year is to prevent owners of rental vehicles from transferring the obligation of carrying the required insurance to renters.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 936 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 839 Consumer Protection and Commerce on H.B. No. 961

The purpose of this bill is to permit insurance companies to increase the maximum interest rate that can be charged on a policy loan from six percent to eight percent.

Under present law, the maximum interest rate that can be charged for loans made by policyholders against their policies is six percent. Your Committee finds that the majority of policyholders do not borrow on their policies and that this creates a situation where the non-borrowers are in effect subsidizing the borrowers because of the low maximum interest rate charged which reduces the earnings of the insurance companies and in turn reduces the dividends paid to policyholders.

Your Committee finds from the testimony presented that an increase in the interest rate will lower the cost of insurance to the consumer public through increased dividends caused by the higher rate of return on loans which lowers the cost of insurance, or through a direct reduction in premium rates. Your Committee also feels that the policy loan interest rate should be more closely related to interest rates in general. Your Committee is therefore in agreement with the intent of this bill to benefit consumers of insurance in general and to alleviate the disadvantage that non-borrowing policyholders now face.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 961, 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 Ushijima, Yim and Yee.

SCRep. 840 (Majority) Consumer Protection and Commerce on H.B. No. 986

The purpose of this bill is to amend section 294-7, Hawaii Revised Statutes, to prevent a claimant from withholding medical bills for no-fault benefits already incurred but not paid for in order to escape the subrogation rights of the no-fault insurance carrier.

Under present law, only those no-fault benefits already paid at the time of tort liability recovery, whether by judgment or settlement, are subject to subrogation. Your Committee finds that an individual can, by withholding no-fault bills which were incurred but not yet paid until recovery pursuant to tort liability, retain the full no-fault benefits with respect to those bills and not be subject to subrogation and thereby circumvent the reach of section 294-7.

Your Committee feels that this bill will remedy this apparent loophole which permits evasion of the rights of subrogation of a no-fault insurance carrier. Your Committee also finds that this bill in no way infringes on the claimant's right to retain the entire no-fault proceeds for those benefits incurred after tort recovery.

Your Committee has amended this bill by adding the words "or incurred" to no-fault benefits which may be subrogated on lines 9 and 10 of the bill, to carry out the intent of this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 986, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 986, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Carroll did not concur.

SCRep. 841 Consumer Protection and Commerce on H.B. No. 1039

The purpose of this bill is to permit insurers to issue a simplified fire insurance policy form as an approved equivalent of the present required standard form.

Your Committee held a public hearing on the companion bill, S.B. No. 889, on February 28, 1979.

Under present law, fire insurance policies must be written on a standard form authorized by the State of New York in 1943. The use of simplified forms for fire insurance policies is prohibited by the statutory requirement that the wording of forms be in accordance with the New York form.

Your Committee finds that this bill will permit the introduction of newer simplified and more understandable fire insurance forms and will allow the consumer to make a more informed decision concerning insurance coverage. Your Committee also finds that adequate control and regulation will be provided by the insurance policy writing as the equivalent for the New York standard form. Your Committee is therefore in accord with the intent of this bill to aid consumers in understanding the terms of their insurance coverage.

Your Committee has amended this bill by clarifying the definition of "approved equivalent" of the standard form fire insurance policy.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1039, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1039, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ushijima, Yim and Yee.

SCRep. 842 Consumer Protection and Commerce on H.B. No. 1186

The purpose of this bill is to enable the Department of Regulatory Agencies to coordinate the scheduling of its examinations of financial institutions with federal agencies on an eighteen month cycle and to direct the bank examiner to adopt rules regarding examination priorities, frequency, and scope.

Your Committee held a public hearing on the companion bill, S.B. No. 1033, on February 26, 1979.

Under present law the bank examiner is required to examine the condition and resources of most financial institutions on an annual basis. In most cases, the examinations have been jointly conducted with federal agencies who were also on a twelve month cycle; however, the federal agencies contemplate lengthening the examination cycle to eighteen months and varying the scope of the examination depending on the condition and resources of the institutions involved.

Your Committee agrees that the bank examiner should be allowed to coordinate the State's examinations with those of the federal agencies in order to maintain the effectiveness and efficiency of the examination program. The bank examiner should also provide for rules in respect to examination priorities, frequency, and scope which will facilitate coordination.

Moreover, your Committee intends that the rule making power given to the bank examiner with respect to the scope of examinations be consistent with the present requirement that examinations be complete. This power should be construed to allow the bank examiner to determine what constitutes a complete examination for the various classes of financial institutions, and should not be construed to allow a less than complete examination.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1186 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 Yee.

SCRep. 843 Consumer Protection and Commerce on H.B. No. 1206

The purpose of this bill is to require a landlord to provide 120 days notice to tenants of the termination of their tenancy when the dwelling unit is to be converted to a condominium under Chapter 514A.

Your Committee has received testimony from various citizens' groups urging passage of this bill and is cognizant of the testimony received for a similar Senate Bill (S.B. No. 494) which was heard by the Senate Judiciary Committee on March 9, 1979.

Under the present law, a landlord is only required to give month-to-month tenants 28 days notice of a proposed termination before converting the dwelling units into a condominium. Your Committee finds that the shortage of available housing in this State coupled with notice of termination of less than a few month's time works a great hardship on tenants in finding comparable housing.

Your Committee has amended this bill by reducing the required time of notice prior to termination to 90 days. The Committee feels this is adequate time to find replacement housing in the rental market and also will not unduly burden landlords.

This is in accordance with previous action by the Senate Judiciary Committee.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1206, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1206, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ushijima, Yim and Yee.

SCRep. 844 Consumer Protection and Commerce on H.B. No. 1576

The purpose of this bill is to conform Section 403-14 to existing law in Chapter 408A, Hawaii Revised Statutes, which accords with the existing use of thrift accounts by industrial loan companies.

Under present law, a thrift account is clearly defined in the Industrial Loan Company Guaranty Act, Section 408A-3(e), Hawaii Revised Statutes, but Section 408-14(6) relating to specific powers of industrial loan companies, is not in complete conformance with it.

Your Committee is in agreement that the aforementioned statutory provisions should be conformed and that industrial loan companies may, but need not, require that investors in thrift account certificates issued by them subscribe to a certain amount as was previously required. Your Committee finds from the testimony presented that such a requirement is unnecessary.

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

and purpose of H.B. No. 1576 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 Yee.

SCRep. 845 Consumer Protection and Commerce on H.B. No. 1589

The purpose of this bill is to protect the consumer public against roofing contractors who offer exaggerated warranties by requiring bonds on roofs which are guaranteed for a period in excess of ten years.

Your Committee finds from the testimony presented that the majority of complaints received by the Contractors License Board relate to roofing and that many are filed against roofing firms that have offered long term warranties but were no longer in existence when claims were made under the warranty.

Your Committee is in agreement with the intent of this bill to eliminate this practice of misleading consumers by enticing them into contracts by offering long term warranties which the roofer has no intention of honoring. Your Committee feels that by requiring each roofing contract with a warranty in excess of ten years to be secured by a bond, the intent of this bill will be effectuated.

Your Committee also feels that the Department of Regulatory Agencies need not be made custodians of all contracts by this bill, including evidence of the bonds issued, as such a requirement will unduly burden the Department's workload and will require additional staffing.

Your Committee has amended this bill to include a statement of purpose and by making nonsubstantive technical changes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1589, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1589, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ushijima, Yim and Yee.

SCRep. 846 Consumer Protection and Commerce on H.B. No. 1661

The purpose of this bill is to provide three statutory amendments relating to the determination of the minimum number of directors a corporation must have, reservation of a corporate name for sixty days, and requiring an involuntarily dissolved corporation to obtain a name clearance before it can be reinstated as a corporation.

The current statutes which affect these three areas provide that a corporation may have a minimum of one director regardless of the number of shareholders provided that at least one director is a Hawaii resident, and that a corporate name may be reserved prior to incorporation for thirty days. There is no statutory provision which deals with the situation where an involuntarily dissolved corporation attempts to reinstate itself but its identical or similar name has been registered in the interim by another party.

Your Committee finds that the present law which sets the minimum number of directors at one, irrespective of the number of shareholders, may work to the disadvantage of minority interests in the case where there is one director and more than one shareholder by negating the protection offered by cumulative voting. Your Committee finds that providing a sliding scale where the minimum number of directors a corporation must have is determined by the number of shareholders will effectively retain the utility of cumulative voting for minority interests.

Relating to reservations of corporate names, your Committee finds from the testimony presented that the present thirty day reservation period is often too short to permit those seeking incorporation to prepare the necessary documents and that the majority of reservations received by the Department of Regulatory Agencies are, in fact, renewals of previous registrations, thereby justifying an increase to a sixty day reservation period. Your Committee finds from testimony presented that an increase in the cost of filing is necessary to reflect overall increased costs of administration.

Relating to reinstatement procedures for involuntarily dissolved corporations, your Committee finds that this bill, which would require a dissolved corporation to adopt a new name should its prior name or one similar to it have been registered in the interim, will effectively clarify these procedures.

Your Committee has amended this bill by renumbering section 4 to section 5 and adding a new section stating the effect of the bracketing and underscoring in the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1661, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1661, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Ushijima, Yim and Yee.

SCRep. 847 Education on H.B. No. 580

The purpose of this bill is to amend Section 301-2, Hawaii Revised Statutes, to provide certain persons under the age of majority the opportunity of utilizing the adult education program for meeting high school graduation requirements.

Present statutes do not permit the enrollment of minors under eighteen years of age in the adult education program. Your Committee agrees that persons under eighteen years of age who for various reasons are separated from the regular schools, and who need a course or courses to complete their graduation requirements, should be given the opportunity to meet such requirements through the adult education program.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 580, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 848 Education on H.B. No. 581

The purpose of this bill is to amend Section 312-2.1 of the Hawaii Revised Statutes, to remove from the state librarian the responsibility for the operations of the public school libraries.

Presently, the state librarian, under the direction of the superintendent of education, is responsible for the operation of all state public libraries, including the operation of school libraries. In practice, however, the school principal, rather than the state librarian, has authority and responsibility over the operations of the school library. The state librarian merely provides support services to the school libraries.

Your Committee heard testimony that the existing community/school libraries are under the supervision of the state librarian. Presently, there is no provision in your statutes giving the responsibility of the community/school libraries to the state librarian.

Your Committee agrees that the deletion of the state librarian's responsibility over the school libraries is proper and that the state librarian be responsible for the operation of the community/school libraries.

Your Committee has amended the bill by placing the community/school libraries under the direction of the state librarian. Your Committee also has made technical amendments to the bill, renumbering Section 2 as Section 3, and adding a new Section 2 indicating the effect of underscoring and bracketing in the bill.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 581, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 581, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 849 (Majority) Education on S.R. No. 28

The purpose of this resolution is to request the Department of Education to submit a report to the Senate Committee on Education explaining the reasons for increasing high school graduation requirements.

Your Committee finds that the Department has increased the number of credits required for graduation from eighteen to twenty, that the number of credits required in mathematics and science has been increased from one to two, and that these increased requirements will apply to the class of 1983. Your Committee is concerned that while these changes are of great importance to students, parents, and teachers, not enough opportunity has been given to all these groups to review and examine these changes.

Your Committee on Education concurs with the intent and purpose of S.R. No. 28 and recommends its adoption.

Signed by all members of the Committee.
Senators Abercrombie, Kawasaki and Kuroda did not concur.

SCRep. 850 Education on S.R. No. 31

The purpose of this resolution is to request the Department of Education and the Department of Accounting and General Services to report to the Legislature on the efforts being made to reduce vandalism and violence at schools and at high school athletic events, and to report on the number of fires and arson cases at schools over the last five years.

Your Committee is aware that all forms of physical and mental violence, assaults, vandalism, and fires create an atmosphere of uncertainty and fear which inhibits learning, and that these negative influences on learning are detrimental to both students and teachers. We are also aware that the Department of Education is not only collecting data on these problems, but has already provided various security programs to prevent these problems. Both Departments involved have indicated their willingness to report to the Legislature before the end of the 1979 session.

Your Committee is concerned that there be a systematic review of the problems of violence, vandalism, and fires and that this review proceed from an accurate presentation of the relevant data and current preventive programs. When the problems are reviewed in their entirety, it will be possible to suggest more effective prevention programs.

Your Committee on Education concurs with the intent and purpose of S.R. No. 31 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 851 Education on S.R. No. 32

The purpose of this resolution is to request the Department of Education to submit a report on the asbestos situation in the public schools. The report is to include the results of tests conducted by the Division of Occupational Safety and Health as well as the situation in schools which were not tested.

Your Committee finds that since it has been found that asbestos is a cancer producing agent, and since some schools may have asbestos materials present in classrooms, it is imperative that these cancer producing materials be removed or rendered harmless. The Department of Education reported that visual inspections have been made by department personnel and by inspectors of the Department of Accounting and General Services. In addition, the Department of Labor has begun air sample testing and has not yet found a dangerous situation in the schools tested. However, your Committee believes the problem of having asbestos materials in public school classrooms is too serious to be allowed to be solved by periodic inspections. Wind and atmospheric conditions in classrooms vary from day to day, the asbestos materials may unexpectedly break off and release particles into the air, and these conditions may jeopardize the health and welfare of the students and teachers.

Your Committee believes a full report should be made on the asbestos situation in the public schools; the asbestos materials used, where and how these materials are used, the kind, number, and results of inspections to date, and the recommendations and plans for eliminating the asbestos hazard from the public schools.

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. 852 Education on S.R. No. 33

The purpose of this resolution is to request the Department of Education to establish an educational program to reduce teenage shoplifting, and report on its progress twenty days before the 1980 legislative session.

Your Committee finds that the prosecution of individuals caught for shoplifting is increasing as evidenced by the increasing crime rate over the past few years. Because arrest, prosecution, and conviction for shoplifting can have a damaging effect on a young person's entire life, it is important that teenagers be made aware of the seriousness of this crime.

Your Committee on Education concurs with the intent and purpose of S.R. No. 33 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 853 Judiciary on H.B. No. 21

The purpose of this bill is to implement certain changes to Article VII, Section 10 of the Constitution of the State of Hawaii as effected by the Constitutional Convention of 1978. The specific language to which such conformance is addressed reads:

"Section 10. The legislature, by a majority vote of each house in joint session, shall appoint an auditor who shall serve for a period of eight years and thereafter until a successor shall have been appointed. The legislature, by a two-thirds vote of the members in joint session, may remove the auditor from office at any time for cause. It shall be the duty of the auditor to conduct post-audits of the transactions, accounts, programs and performance of all departments, offices and agencies of the State and its political subdivisions, to certify to the accuracy of all financial statements issued by the respective accounting officers and to report the auditor's findings and recommendations to the governor and to the legislature at such times as shall be provided by law. The auditor shall also make such additional reports and conduct such other investigations as may be directed by the legislature."

H.B. No. 21, H.D. 1 amends section 23-4, Hawaii Revised Statutes, which speaks to the duties of the auditor, and includes the new constitutional language clarifying those functions.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 21, 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 Campbell and Ushijima.

SCRep. 854 Judiciary on H.B. No. 100

The purpose of this bill is to implement Article XV of the Constitution of the State of Hawaii as amended by the Hawaii Constitutional Convention of 1978. Article XV, as amended, makes the state motto a part of the Constitution. This bill, therefore, amends section 5-9, Hawaii Revised Statutes, to delete the legislature's authority to change the state motto.

Your Committee has made several minor amendments to H.B. No. 100 by adding a section stating the legislative purpose of the bill and by rearranging the language in section 5-9, Hawaii Revised Statutes, to improve its clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 100, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 100, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell and Ushijima.

SCRep. 855 Judiciary on H.B. No. 421

The purposes of this bill are (1) to make a motion for the deferred acceptance of a guilty (DAG) plea allowable only prior to trial and (2) to disallow a defendant to whom a DAG plea has been granted from applying for expungement of his official criminal record pursuant to section 831-3.2, Hawaii Revised Statutes.

Your Committee notes that DAG pleas are designed for the first time offender who is genuine in his intent never to repeat his error. We think that our criminal justice system should accommodate such a person and prevent him from being permanently stigmatized by his singular and momentary error.

We also observe that the DAG plea is not designed for the innocent. Our criminal justice system should either warrant the confidence of all who are innocent that justice will prevail in his acquittal or be improved to obtain that confidence. We are mindful of course of the situational defendant who is innocent but confronted by the fact that available evidence strongly favors conviction. Imperfect as it may be, the DAG plea may also be of advantage to such situational defendant.

Your Committee is of the distinct view that the DAG plea should not be available to the person who is convinced of his own guilt, but who would like to chance a trial to see

if he can "get away with it" and who would use the DAG plea at the very last minute when that wrongful hope has been dispelled. We expect that our criminal justice system will have availed every accused sufficient time to obtain counsel or otherwise evaluate his circumstances prior to commencement of trial. With such commencement begins the imposition upon witnesses and the court, and the accrual of public expense for the cost of trial. Accordingly, we feel it is proper that the availability of the DAG plea should terminate with the commencement of trial when the prosecution presents its first witness. We also think that specifying a deadline after which the DAG plea will cease to be available will have the salutary effect of inducing a reasonable timetable for plea bargaining.

Your Committee is not in agreement with the second purpose of H.B. No. 421, H.D. 1 and has amended it with reference to subsection 853-1(e) to conform it to the intent and purpose of S.B. No. 393, S.D. 1 which was previously passed out by your Committee. That bill provided for uniform treatment of misdemeanor and felony offenders in obtaining expungement orders after obtaining dismissal of charges in DAG plea cases. It also provided that expungement should not take effect until one year following discharge of the defendant, although application for expungement may be made immediately upon discharge.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 421, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 421, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell and Ushijima.

SCRep. 856 Judiciary on H.B. No. 435

The purpose of this bill is to make commercial bribery a class C felony when the benefits received from such offense exceed \$1,000.

Under present law, the offense of commercial bribery is a misdemeanor. Your Committee has heard testimony that the practice of exchanging monetary consideration to influence the discretion of officers in private corporations is perhaps more prevalent and of greater public concern than this misdemeanor classification would warrant. It is the feeling of your Committee that society's interest in promoting civil or commercial fidelity by penalizing those who intentionally violate those rules in promoting the improper allocation of resources justifies the imposition of a class C felony when the benefit incurred exceeds \$1,000.

Your Committee finds that increasing the classification of commercial bribery for these offenses from a misdemeanor to a class C felony will effectively rectify the problems of the present law.

Your Committee has made certain nonsubstantive, technical amendments to this bill to clarify its legal effect.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 435, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 435, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell and Ushijima

SCRep. 857 Judiciary on H.B. No. 438

The purpose of this bill is to restate the provisions of the Hawaii Penal Code relating to rape in sex-neutral terms. Under the present law, sections 707-730, 707-731, and 707-732, Hawaii Revised Statutes, the offender must be a male and the victim must be a female.

A recent state circuit court decision, State v. Sasahara, (Criminal No. 51251, July 14, 1978), held that the provision relating to statutory rape was unconstitutional because there was no reasonable basis for the distinction between male and female. Your Committee believes there may be grounds for a similar attack on the other sections of the rape law.

H.B. No. 438 has been amended to further eliminate any reference to gender by substituting "the person" for "he" wherever it appears in the three sections. With this change, your Committee believes H.B. 438, S.D. 1 has eliminated any possibility of constitutional attack of Hawaii's rape laws based on the sex of the offender.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 438, as amended, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 438, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell and Ushijima.

SCRep. 858 Judiciary on H.B. No. 925

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The pertinent language of Article II to which such conformance is addressed by this bill reads as follows:

"Section 4. The legislature shall provide for the registration of voters and for absentee voting and shall prescribe the method of voting at all elections. Secrecy of voting shall be preserved; provided that no person shall be required to declare a party preference or nonpartisanship as a condition of voting in any primary or special primary election. Secrecy of voting and choice of political party affiliation or nonpartisanship shall be preserved."

The primary concern of your Committee in conforming the Hawaii Revised Statutes, Chapters 11 and 12, to changes in the Hawaii State Constitution has been to delete all references to party preference or nonpartisanship as a prerequisite to voting in a primary, or special primary election.

In deleting such references, your Committee believes that these changes fulfill the mandate of Article II, section 4, to "permit secrecy of voting and choice of party affiliation". Your Committee has not changed our present election system to a "blanket" primary as such concern is not addressed by the language of Article II, section 4 and does not reflect the present or historical primary system in Hawaii.

It should also be noted, that H.B. No. 925, H.D. 2 has retained the current status of the law by restricting the voter's choice to candidates of only one party or nonpartisanship. It is again the concern of your Committee, to fully implement Article II, section 4, to allow for secrecy of voting, but within the confines of the present election system.

H.B. No. 925, H.D. 2 has been amended by the addition of sections 11-72 pertaining to precinct officials and 16-42 pertaining to electronic voting requirements. In both of these sections all reference to party preference in a primary election has been deleted. Section 11-72 has also been amended by extending the date by which names for precinct officials are to be submitted from 60 days to 90 days prior to the close of filing for a primary or special primary election.

Section 12-21 relating to official ballots has been amended by the addition of a set procedure to be followed in cases where the names of all candidates cannot be easily or comfortably placed on one ballot. In such an instance, the chief election officer shall hold a drawing to determine the order on the ballot of the names of all candidates by party or nonpartisanship.

Your Committee has also amended H.B. 925, H.D. 2 to effect statutory clarity by simple word changes and structural amendments to the form of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 925, H.D. 2 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 925, H.D. 2, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell and Ushijima.

SCRep. 859 Judiciary on H.B. No. 1140

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

Your Committee has reviewed the bill and emphasizes that it contains no substantive amendments or changes to the statutes. All of the changes listed in the memorandum used in the explanation in House Standing Committee Report No. 628 are purely technical and clerical.

Your Committee received testimony from the Director of the Legislative Reference Bureau that the bill constituted the work of the Revisor of Statutes in correcting the errors that have accumulated in the ten volumes of the H.R.S. and are of a technical and nonsubstantive nature.

Your Committee also notes that House Standing Committee Report No. 628 has incorporated in substance the memorandum submitted by the Revisor in explaining the section-by-section changes.

Your Committee has consulted with the Office of the Legislative Reference Bureau and has made the following technical, nonsubstantive amendments:

1. Deleted the open bracket on line 4 on page 38 because all of the material on line 3 and up to the close parenthesis after "16" is to be deleted.
2. Underscored the word "upon" on line 11 on page 68 following the phrase "the authority shall adopt".
3. Restored line 15 on page 91 to the wording in the original H.B. No. 1140 version, i. e., equivalent department; provided instead of "equivalent department; provided, however,".

Your Committee has been informed that the changes made above reflect correct technical usage.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1140, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1140, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell and Ushijima.

SCRep. 860 Judiciary on H.B. No. 1386

The purpose of this bill is to effectuate comprehensive improvement of Hawaii's laws pertaining to theft by extortion and criminal coercion. In the main, this bill seeks to achieve such purpose by (a) unifying these separate criminal provisions; (b) making unavailable the "claim of right" defense under certain defined situations; and (c) expanding Hawaii's extortion laws to prohibit extortionate credit transactions.

1. Treatment of the "claim of right" defense. Central to the problem existing in the prosecution of extortion and related crimes under present Hawaii law is the fact that the accused has the right to assert in defense that the victim does in fact owe him a debt, and that the threats he has made were accordingly made in his own "claim of right" to obtain payment. This is the "claim of right" defense. It arises because present "theft by extortion" and "criminal coercion" provisions are focussed upon the results sought to be obtained by the threat. That is, present law is addressed to whether the end pursued was right or wrong, and if the accused had a credible "claim of right" to obtain that end; then that in itself becomes a defense regardless of whether the threat made to obtain that end was improper.

The Hawaii Crime Commission has indicated that it does not recommend eliminating the "claim of right" defense in situations where the offense can be prosecuted focussed upon the wrongfulness of the result sought to be obtained. For example, if an accused sought to obtain money that did not belong to him, then the thought is that prosecution should be pursued with that objective.

2. Extortionate credit transactions. The Commission's answer to the problem raised by the "claim of right" defense is to enact statutory provisions that make extortionate credit transactions a crime. The focus of such law is to prohibit certain threats to collect debts. It is the extortionate or illegal means incorporated in the threat that is made illegal and whether the accused has a credible "claim of right" to obtain his desired result, i. e. the payment of the debt, becomes immaterial to the determination of his culpability. Accordingly, by this different focus, Hawaii's new extortionate credit transaction provisions would eliminate the use of the "claim of right" defense in debtor-creditor situations where prohibited means are employed.

It should be observed that the extortionate credit transaction provisions are applicable in debtor-creditor situations only. It prohibits (a) extensions of credit with the understanding that extortionate means will be used to collect; (b) financing extortionate loans; and (c) collecting debts by use of extortionate means.

The Commission has indicated that such provisions are necessary to allow prosecution of the higher echelon of organized crime's "loan shark" operations. These provisions have been drafted along the model of the federal statute, and your Committee notes that recently a federal appellate court held the law to be valid. U.S. v. De Vincent, 546 F.2d (1st Cir. 1976), cert. denied 431 U.S. 903.

3. Unification of "theft by extortion" and "criminal coercion" provisions. The unification sought to be achieved by the Commission of the "theft by extortion" and "criminal coercion" provisions are as indicated by the chart attached to this report as Exhibit A.

Your Committee has amended H.B. No. 1386, H.D. 1 by including the offense of extortion among the categories listed on Exhibit A as offenses committed in the first degree and punishable as a class B felony where extortion results in great mental anguish to the victim.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1386, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1386, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell and Ushijima.

EXHIBIT A

		<u>CURRENT HAWAII LAW</u>	
GRADE	CRIMINAL	THEFT BY	D CONSOLIDATED
OF			E EXTORTION
OFFENSE	COERCION	EXTORTION	R E STATUTE E
CLASS A Felony	Coercion when firearms, explosives, or any dangerous weapon is used to instill fear		Extortion when a firearm, explosive, or any dangerous weapon is immediately avail- able and is physically used when committing extortion in any degree.
CLASS B Felony		Theft by extortion of property or services, the value of which exceeds \$200	F (1) Extortionate Credit Trans- actions (ECT); or I (2) Extortion of any type which causes "great mental anguish;" R or; S (3) Extortion of property or services, the value of which exceeds \$200 in any 12 month period; T
CLASS C Felony	Action or Inaction coerced by threats set forth in 707-724	Theft by extortion of property or services, the value of which exceeds \$50	S (1) Extortion of property or E the value of which exceeds C \$50 in any 12 month period; or O (2) Action or inaction coerced N by use of any threats as D set forth in statute.
Misdemeanor			T H I Extortion of property or R services, of any value. D
Petty Misdemeanor		Theft by extortion of property or services of any value.	

SCRep. 861 Judiciary on H.B. No. 1634

The purposes of H.B. No. 1634, H.D. 1 are to open the State Tort Liability Act to trial by jury and to disallow the court from awarding attorney's fees against the State in addition to the judgment.

Your Committee notes that the State Tort Liability Act was originally modeled after the Federal Tort Liability Act. The latter was drafted specifically to disallow jury trials on the theory that a governmental defendant, by virtue of its impersonal posture and seemingly limitless financial resources, may be vulnerable to manipulation of the passions of juries by skillful counsel for claimants. The testimony of the attorney general indicates that the experience of its office suggests that a jury's judgment is preferred over that of our judges.

Your Committee feels that it would be a grave error to open the floodgates of jury passion to all cases under the State Tort Liability Act. Recognizing that claims under that act are essentially allowed as sovereign dispensation, we conclude that jury trials should be availed only when the attorney general should conclude that the general resources of Hawaii's taxpayers would be vulnerable to unfairness without a jury trial.

H.B. No. 1634, H.D. 1, would have allowed (a) the circuit court to utilize an "advisory jury" upon its own motion and discretion, and (b) a jury trial upon the consent of the parties, but which would again be discretionary upon the court. It has been amended to allow a jury trial only when the State should demand it, and that such demand is to be deemed a matter of right.

H.B. No. 1634, H.D. 1, would have repealed section 662-12 governing attorney's fees on the theory that such repeal would discontinue the present practice by judges of allowing attorney's fees in addition to judgments awarded in favor of plaintiffs.

Your Committee has amended H.B. No. 1634, H.D. 1, to make attorney's fees payable out of judgments awarded to plaintiffs, thus treating the problem more directly. However, such limitation is not applicable to attorney's fees and costs that the court may allow as sanctions against the attorney general. We would observe in that regard that the office of the attorney general should treat everyone fairly even when they are opposing litigants. Public confidence in the integrity of that office is paramount to our democratic process and prompts that posture. Thus, your Committee concludes that it is necessary that the authority of the court to award sanctions against the attorney general and his staff should not be negated by implication. Such sanctions are to be allowed similarly as against all other party litigants whenever unreasonable conduct by the attorney general or his staff is deemed by the court to have unfairly required accrual of attorney's fees and costs by the opposing party.

We also amended H.B. No. 1634, H.D. 1, to conform the State Tort Liability Act to the Federal Tort Liability Act by raising the maximum allowable attorney's fees (excepting sanctions) from twenty per cent to twenty-five per cent.

Finally, your Committee's staff was informed by Deputy Attorney General Charles Fell that H.B. No. 1634, H.D. 1, was drafted without incorporating the changes effectuated by Act 156, Session Laws of Hawaii 1978, to section 661-1, Hawaii Revised Statutes. Accordingly, H.B. No. 1634, H.D. 1, was corrected to properly reflect such changes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1634, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1634, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell and Ushijima.

SCRep. 862 Judiciary on H.B. No. 1716

The purpose of this bill is to make the humpback whale the official marine mammal of the State. H.B. No. 1716 proposes the repeal of section 5-11, Hawaii Revised Statutes, regarding "Calabash Cousins of Hawaii" with the replacement of the humpback whale as the state emblem.

Your Committee finds that rather than replacing the symbolism of calabash cousins with that of the humpback whale, both should be preserved. H.B. No. 1716 has therefore been amended by proposing the addition of a new section to Chapter 5, Hawaii Revised Statutes, making the humpback whale the state marine mammal.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1716, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1716, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Campbell and Ushijima.

SCRep. 863 Ways and Means on H.B. No. 14

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978. The specific language of Article VII, section 3, to which conformance is addressed by this bill reads as follows:

"There shall be a tax review commission, which shall be appointed as provided by law on or before July 1, 1980, and every five years thereafter. The commission shall submit to the legislature an evaluation of the State's tax structure, recommend revenue and tax policy and then dissolve."

Your Committee is in accord with the purpose of the bill, which is to set up a tax review commission. The duties of the commission will be to conduct a systematic review of the State's tax structure, and submit evaluations and recommendations to the legislature.

Your Committee has amended the bill to provide that the commission shall be comprised of five rather than six members, that it shall be appointed pursuant to the advice and consent of the senate by July 1, 1979 rather than July 1, 1980, that it may enter into contracts with consultants, and that it is to report its findings 120 days prior to the convening of the second regular session of the legislature after the members of the commission have been appointed. A new section 4 has been added to the bill to set forth the expending agency and a lapsing date for the appropriation. Nonsubstantive changes in style have also been made.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 14, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 14, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senators Hara, Yim and Yee.

SCRep. 864 Ways and Means on H.B. No. 22

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes in the Constitution of the State of Hawaii as amended by the Constitutional Convention of 1978. House Bill No. 22, H.D. 1, S.D. 1, conforms the county bonding statutes to amendments to Article VII, sections 12 and 13, by revising provisions of chapters 47, 47C, and 49 of the Hawaii Revised Statutes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 22, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Anderson and Yee.

SCRep. 865 Ways and Means on H.B. No. 38

The purpose of this bill is to conform the Hawaii Revised Statutes to amendments to the Hawaii State Constitution ratified by the electorate in 1978. The specific language of Article X, section 2, to which such conformance is addressed by this bill, reads as follows:

"There shall be a board of education composed of members who shall be elected in a nonpartisan manner by qualified voters, as provided by law, from two at-large school board districts. The first school board district shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second school board district shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai, and Niihau. Each at-large school board district shall be divided into departmental school districts, as may be provided by law. There shall be at least one member residing in each departmental school district."

Your Committee is in basic agreement with the bill as amended by your Committee on Judiciary but has made several nonsubstantive, technical amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 38, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 38, H.D. 2, S.D. 3.

Signed by all members of the Committee except Senators Hara, Yim and Yee.

SCRep. 866 Ways and Means on H.B. No. 287

The purpose of this bill is to delete statutory limitations on fees charged by the department of health for the issuance of a certified copy of a vital record and for the search of files and records and to allow the department to charge reasonable fees.

The department of health noted that the last increase in fees was in 1964, and the amount of work needed for the services required in some instances is lengthy and time-consuming. In addition, salaries and other current expenses have increased since then, and the present fees do not cover the costs for the services performed.

This bill would allow the department to establish reasonable fees in accordance with the Administrative Procedure Act when changes are necessary to cover the increased costs of processing. It is not the intent of your Committee to allow the department to establish onerous or unreasonable fees, nor to utilize this new authority to generate a profit. Rather, these amendments allow the department of health to establish fees adequate enough to cover its expenses without the necessity of requesting a statutory amendment.

Your Committee has amended this bill by making a nonsubstantive, technical amendment.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 287, 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. 287, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Hara and Yee.

SCRep. 867 Ways and Means on H.B. No. 606

The purpose of this bill is to authorize the department of social services and housing to determine the existence of physical or mental impairment qualifying an individual for public assistance in a uniform manner, to provide that dependent children must be living with an individual who is claiming general assistance eligibility, and to clarify the law to include employed persons without sufficient income and resources among those eligible for general assistance; provided that such employed persons meet the other requirements for such assistance.

Your Committee finds that increasing standardization in determination of disabilities which qualify an individual for public assistance is more equitable to all persons applying, in addition to being more efficacious in ensuring that those individuals who are truly in need of public assistance are the ones who receive such assistance.

The bill also clarifies the intent of the legislature that persons who are employed but who are without sufficient income to meet their minimum needs as determined under the public assistance law are eligible for public assistance. Such persons, of course, must meet all other additional eligibility standards for public assistance.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 606, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Hara and Yee.

SCRep. 868 Ways and Means on H.B. No. 643

The purpose of this bill is to effect certain technical changes in chapters 11 and 12 of the Hawaii Revised Statutes pertaining to election laws.

It is basically a "housekeeping" measure. As amended by your Committee on Judiciary, this bill (1) raises the pay for members of the board of registration from \$35 to \$45 a day; (2) requires that political parties submit the names of precinct officials no later than 90 days before the close of filing for primary, special primary, or special elections; (3) deletes use of the primary registration listing of party preference for examining precinct officials; (4) establishes that instruction for precinct officials be provided no later than the day prior to an election; (5) provides that voting units be designated by a uniform system; (6) deletes the requirement that each clerk certify to the chief election officer the actual number of ballots delivered or mailed absentee voters; (7) eliminates the need to amend the election laws each time court filing fees are changed; (8) specifies the date candidate nomination papers become available; and (9) eliminates the requirement that absentee ballots be rechecked on election day.

Your Committee has deleted Section 1 of H.B. No. 643, H.D. 1, S.D. 1. The amendment proposed in that section, which may be found in H.B. No. 643, H.D. 1, required that

each person registering to vote subscribe to an affidavit containing a "notice to comply with the Privacy Act of 1975". The intent of the proposed language was to require that voters authorize public access to their voter registration records in the manner required by federal privacy laws. However, federal privacy laws do not apply to the states. In addition, because of the language used in that proposed amendment, it is not clear what the effect of such an amendment would be. Your Committee on Judiciary therefore intended to eliminate that proposed amendment. However, reference to that modification to H.D. 1 was inadvertently omitted from its committee report. This Committee agrees with such a deletion. The deletion of this amendment allows the deletion of Section 1 of the bill amending section 11-15, Hawaii Revised Statutes, as no other amendments are made to that section.

Your Committee has also made nonsubstantive, 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. 643, 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. 643, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Hara, Yim and Yee.

SCRep. 869 Ways and Means on H.B. No. 982

The purpose of this bill is to amend section 37-75, Hawaii Revised Statutes, relating to the Variance Report for the Executive Budget system by requiring a narrative explanation of "significant", rather than "major", differences for the last completed fiscal year.

The American Heritage Dictionary defines "significant" as important; "major" is defined as requiring great attention or concern. The differences between the two terms is that "significant" may also include small changes which could have a sizeable impact upon the program. Your Committee believes this information is important in evaluating the performance of programs.

Additionally, in accordance with the style rules for the division or designation of sections of the Hawaii Revised Statutes, the paragraphs identified by lower case letters are changed to capital letter designations. Unnecessary commas are also deleted.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 982, 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 Yim and Yee.

SCRep. 870 Ways and Means on H.B. No. 1531

The purpose of this bill is to provide \$100,000 to Alu Like, Inc., as state matching funds with federal financial assistance for Native American Programs to meet the needs of native Hawaiians to attain economic and social self-sufficiency under the reauthorized federal Native American Programs Act of 1978.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1531, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Abercrombie, Hara, Yim and Yee.

SCRep. 871 Ways and Means on H.B. No. 1633

The purpose of this bill is to amend chapter 144, Hawaii Revised Statutes, to enable the department of agriculture to more adequately monitor the manufacture and distribution of medicated feeds in Hawaii, to enter into a cooperative state-federal inspectional program, and to update the statute so it remains current with advances in feed technology.

Your Committee finds that the bill will be advantageous for agricultural inspection in the State for the following reasons (1) it provides for the inclusion of the rules and regulations promulgated under the Federal Food, Drug, and Cosmetic Act relating to animal feeds; (2) it provides for the adoption of Food and Drug Administration (FDA) Good Manufacturing Practice Regulations for medicated feeds and premixes; (3) registration fees will still be assessed but the rate structure will be provided by rules and regulations; (4) it provides for labeling requirements pertaining to guaranteed analysis, adequate directions for use on feeds containing drugs, and precautionary statements on claims for feeds;

(5) it provides for more detailed inspection, sampling and analysis of commercial feeds; and (6) it provides for the confidentiality of "trade secrets" by imposing a monetary fine and/or a prison sentence.

Your Committee is of the opinion that there is a potential human risk associated with medicated feeds and that this bill would enable the department of agriculture to refocus its inspectional service to concentrate on this risk.

Your Committee has corrected the numerous typographical and technical errors in this bill. Further, it has taken the sections numbered 144-16 and 144-17 relating to constitutionality and repeal out of the chapter and made them instead new sections 2 and 3 of the bill as being more appropriate since such provisions do not belong in the Hawaii Revised Statutes. Sections 2 and 3 of the bill have been renumbered sections 4 and 5.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1633, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1633, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Hara and Yee.

SCRep. 872 Ways and Means on H.B. No. 1648

The purpose of this bill is to provide civil service exemption for nutrition program assistants of the University of Hawaii Expanded Food and Nutrition Education Program (EFNEP). The EFNEP is a federally funded program designed to educate and advise persons in target areas of their families' nutritional needs and economical ways of fulfilling these needs. Field work for this program involved home visitations by Nutrition Program Assistants. There are currently 33 part-time (50 per cent) positions funded by the U.S. Department of Agriculture which are assigned to the Program. Most of these positions were established in 1969 and have been filled on a civil service exempt basis pending the establishment and filling of regular civil service positions.

In 1977 the descriptions for position classification and pricing actions were sent to the department of personnel services (DPS) with instruction to explore further civil service exemptions. In February 1978, such exemptions were denied as the program was not time limited, but a regular and continuing one with annual funds from the U.S. Department of Agriculture, similar to that of other state-administered programs funded by the federal government.

Although the one-year limitation of exemption via section 76-16(3), Hawaii Revised Statutes, has run out, DPS permitted the exemption of these positions for an additional year and four months (until June, 1979) while civil service positions are established and filled accordingly.

Of the 33 Nutrition Program Assistant positions, 26 are now filled. The earliest employment date is October 1, 1969 and the latest, August 1, 1978. One employee is paid at the SR-11 rate and the others at SR-10. Their current salaries include negotiated salary increases over the years.

Your Committee agrees with the findings of your Committee on Higher Education concerning the conversion of these positions to civil service positions.

Your Committee has amended the bill by correcting a reference to Article IV of the Constitution to Article V in conformance with the 1978 constitutional amendments, and has made other nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1648, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1648, S.D. 1.

Signed by all members of the Committee except Senators Hara and Yee.

SCRep. 873 Ways and Means on H.B. No. 1653

The purpose of this bill is to amend chapter 150, Hawaii Revised Statutes, to enable the department of agriculture to meet changing seed marketing practices, and to increase seed importers' license fees.

This bill authorizes the department of agriculture to establish rules on labeling requirements for agricultural and vegetable seeds. It also authorizes the department to set the licensing fee for seed importers by administrative rule.

Your Committee has amended section 1 of this bill. Your Committee found that H.B. No. 1653 failed to include the last paragraph to section 150-22, Hawaii Revised Statutes. It was presumed not to be the intent of H.B. No. 1653 to repeal the paragraph providing that the department of agriculture follow the provisions of the Federal Seed Act. This Committee has amended H.B. No. 1653 to include that paragraph which reflects the existing law.

Your Committee also has made nonsubstantive, technical, grammatical, and style amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1653, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1653, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Hara and Yee.

SCRep. 874 Ways and Means on H.B. No. 1663

The purpose of this bill is to conform vocational rehabilitation statutes with federal law and to permit the department of social services and housing to administer the vocational rehabilitation program within certain funding ceilings.

Your Committee finds that further clarification of the law is necessary to eliminate any uncertainty of the intent of the State to assume responsibility for vocational rehabilitation within certain statutory specifications. To this extent, your Committee has amended the bill to provide that vocational rehabilitation services shall be provided in accordance with statutes, as well as within the limits of available funding. Similarly, your Committee has amended the bill by eliminating the ambiguity created by a provision which called for the legislature to appropriate funds necessary to carry out the vocational rehabilitation laws. Such appropriations must be structured around the specific programs which are developed to carry out the law, and accordingly form policy decisions which must be made at various points in time. Moreover, omission of the language will allow clearer recognition of the use of funds which come from sources other than the State, without eliminating state appropriations.

Your Committee has made nonsubstantive, technical amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1663, 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. 1663, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Hara and Yee.

SCRep. 875 Ways and Means on H.B. No. 1666

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

Testimony on a companion senate bill was submitted by the department of taxation recommending that the Hawaii Income Tax Law be amended to adopt the Internal Revenue Code amendments made by Congress during the calendar year 1978. The department of taxation submitted a draft of suggested amendments to the senate companion bill and the same amendments are incorporated in this house bill. The department, the Hawaii Tax Foundation, and The Chamber of Commerce testified in favor of the amendments.

This bill updates the Hawaii Income Tax Law and makes numerous changes.

The date of adoption of the provisions of the federal Internal Revenue Code as they are operative in Hawaii is changed from December 31, 1977 to December 31, 1978. In addition it is provided that in the case of amendments to the Code that relate to technical, clerical, and conforming amendments to the estate and gift tax provisions the effective dates set forth in the relevant amendments shall control. A similar provision was added with relation to the determination of basis and income for years prior to January 1, 1978.

The provisions relating to the estate and gift tax are necessary due to congressional amendments in 1976 and 1978. In 1976 Congress provided and Hawaii adopted provisions that for the purposes of determining the basis of property a person receiving property from a decedent took the basis of the decedent instead of determining the basis of the property as of the date of the death of the decedent. The 1978 changes provided for a suspension of this change in treatment of basis from the 1976 effective date until 1980.

By changing the date that the Code is operative in the State the following major changes are adopted:

(1) Taxpayers aged 55 and older can elect a one-time exclusion of up to \$100,000 in profits realized on the sale or exchange of a principal residence owned and occupied as such for at least three out of the five years immediately preceding the sale. Your Committee finds that this provision will provide tax relief to our elderly who purchased homes many years ago and now find that their children have left and they no longer need a large home with its maintenance requirements. This provision will not assist speculators due to the time and primary residence limitations.

(2) The deduction for the itemization of state and local taxes on gasoline, diesel, and other motor fuels for personal use is repealed.

(3) Subchapter S corporations, also known as small business corporations, may now have fifteen shareholders with husbands and wives treated as one shareholder. A subchapter S election may also be made during the first seventy-five days of the corporation's current taxable year or during the entire preceding taxable year.

(4) The alternative tax is deleted as the ratio of capital gains being taxed is reduced from fifty per cent to forty per cent of the gain. With this reduction the necessity of the alternative tax which provided a ceiling on the effective rate of tax placed on capital gains is obviated and appropriate amendments have been made to section 235-51.

In addition to the above amendments, the state income tax law is also amended to provide for a return to be submitted to the department of taxation by the department of labor and industrial relations concerning unemployment compensation paid individuals during the taxable year. The 1978 federal Code amendments provide that persons with an adjusted base income of \$20,000 or more if single, and \$25,000 or more if married, who receive unemployment compensation may be taxed on some of the compensation received over that amount. In order to assist the department and the Internal Revenue Service in keeping track of such payments, this return is required to be submitted by the department of labor and industrial relations. Since the requirements are the same for the federal and state law there should be no increase in costs under this bill.

The child care credit law is amended to conform to the federal amendments which allow the deduction of amounts paid to grandparents and other relatives not claimed as dependents. Other amendments will ease the workload of the department and of individuals and corporations by excusing the filing of an estimated tax return if an individual's or corporation's estimated tax is less than \$40.

Other technical amendments are made to the state income tax law and the law concerning the taxation of banks and financial institutions to update or correct them in the light of amendments to the federal Internal Revenue Code and to reflect the experience of the department of taxation in working with section 235-2.3, Hawaii Revised Statutes, after one year.

Your Committee finds that this bill will have little effect on state revenues as there are offsetting gains and losses.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1666, 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 Hara, Yim and Yee.

SCRep. 876 Ways and Means on H.B. No. 1680

The purpose of this bill is to provide for the formal organization and operation of the natural energy laboratory of Hawaii, to designate the members of its governing board to delineate the powers and duties of the board, and to provide for the operation of the Natural Energy Laboratory of Hawaii as a special funded activity.

Act 236, Session Laws of Hawaii 1974, provided for the establishment of the Natural Energy Laboratory of Hawaii as a research facility on state-owned land makai of the Ke-ahole Airport on the Big Island. Act 236 also provided that the Natural Energy Laboratory of Hawaii be under the direction and management of a consortium made up of state and county entities and such foundations and enterprises as may be willing to provide funds, facilities, or research for the laboratory.

Following the enactment of Act 236, funds from various sources have been invested,

facilities are being developed, and demonstration projects have been initiated under the direction and management of a consortium consisting of representatives of the county of Hawaii, the office of the marine affairs coordinator, the University of Hawaii, the department of planning and economic development, and the department of land and natural resources.

Your Committee has amended the bill by making nonsubstantive language amendments, deleting section 4 which appropriates \$1 for the purposes of the bill, and by renumbering section 5 to section 4.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1680, 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. 1680, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Hara and Yee.

SCRep. 877 Judiciary on H.B. No. 79

The purpose of this bill is to require police and law enforcement officers to report suspected cases of child abuse or neglect to the department of social services and housing.

Under this bill, the police department will be required to orally report all instances of child abuse or neglect to the department of social services and housing. House Bill No. 79, H.D. 1, also requires the police department to file a written report of the alleged incident of child abuse or neglect with the department of social services and housing.

While your Committee feels that written reports are a necessary provision under this bill, it believes that such a blanket requirement on the police department is an unnecessary burden. Your Committee has therefore amended this bill upon the suggestion of the police department of the city and county of Honolulu that a police or law enforcement officer shall only be required to file a written report with the department of social services and housing when the police department determines that it will not pursue the matter further and the department of social services and housing decides to pursue the particular case.

Your Committee has also amended the bill to show the effect of brackets and underscoring.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 79, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 79, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Mizuguchi and Carroll.

SCRep. 878 (Majority) Judiciary on H.B. No. 398

The purpose of this bill is to require any accused in a criminal prosecution who seeks to interpose the defense of choice of evils (conduct which the actor believes to be necessary to avoid an imminent harm or evil to himself or to another) provided by section 703-302, Hawaii Revised Statutes, to carry the burden of proving such defense by a preponderance of the evidence.

At the present time, such defense when asserted by the accused requires no burden on his part as to the weight of evidence he must produce to be entitled to such defense. Rather, such defense may be asserted merely with the intent to utilize such evidence as he may have in assertion of his right to be acquitted on the claim of failure of the prosecution to have proven each element of the crime "beyond a reasonable doubt".

Your Committee is aware that the issue of affirmative defenses in criminal procedure is one that has attracted much legal scholarship in recent years. See Affirmative Defenses in Ohio after Mullaney v. Wilbur, 36 Ohio State Law Journal, 828 (1975); The Restoration of In re Wisslip: A Comment on Burdens of Persuasion in Criminal Cases after Palleism v. New York, 76 Mich. Law Rev. 30 (1977); The Constitutionality of Affirmative Defenses to Criminal Charges, 29 Ark. Law Rev. 429 (1976).

The heart of the controversy in the issue of "affirmative defense" lies in the time-honored rule in criminal jurisprudence that in protection of the innocent, the prosecution must prove each element of the crime beyond a reasonable doubt. The arguments directed against affirmative defenses are that they dilute the prosecution's burden in this regard and swing the balance of the criminal trial against the presumption of innocence.

However, legal scholarship generally favors the resort to affirmative defenses where "the relative accessibility of evidence to the defendant justifies calling upon him to put

in evidence concerning his defensive claim." La Fave and Scott, Criminal Law, 1972 at page 154.

The converse of the reasoning is addressed to the question whether the nature of the defense would negate an element of the crime and thus nullify the normal prosecutorial burden. See 36 Ohio State Law Journal, at 838; also La Fave and Scott, at page 154.

Your Committee notes that the defense of choice of evils, admits the commission of the act charged with all necessary elements, but seeks to interpose the existence of a state of facts that would provide the basis of acquittal. It is our view, accordingly, that the accused should have the burdens of coming forward with the evidence and of establishing such defense by the preponderance of evidence for the claim of this defense. In this regard, H.B. No. 398 is in accord with the law in Ohio.

We also note that the nature of the defense to be governed by H.B. No. 398 is essentially accessible to the accused, such that fairness would require the burden of fact finding should rest with the accused.

Your Committee is aware that the Arkansas Supreme Court had held to the contrary in Mode v. State, 330 S.W. 2d 88 (1959). That decision rules that the defendant could not be required to bear the burden of proof on the defense of self-defense because it would tend to rebut the element of malice. We think, however, that the discussion found in an article in the Ohio State Law Journal is better reasoned. It says:

"If any class of defenses deserves the title of "affirmative," it is those defenses that admit the commission of the act charged with the necessary mental element, but seek to interpose the existence of a state of facts that, if true, would provide a complete exculpation. The traditional defenses of duress, necessity and self-defense are common examples. Unless one is willing to draw the concepts of volitional act and mental element quite broadly, these defenses do not negate either concept. In that respect they are analogous to the common law of confession and avoidance; they admit the truth of the facts pleaded but offer an excuse." 36 Ohio State Law Journal, 828 at 840-41.

Your Committee has made certain nonsubstantive, technical amendments to this bill to clarify its legal effect.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 398, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 398, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Mizuguchi and Carroll.
Senator Cobb did not concur.

SCRep. 879 (Majority) Judiciary on H.B. No. 405

The purpose of this bill is to require any accused in a criminal prosecution who seeks to interpose the defense of "use of force in self-protection" and "use of force for the protection of other persons" provided by sections 703-304 and 703-305, Hawaii Revised Statutes, to carry the burden of proving such defense by a preponderance of the evidence.

At the present time, such defenses when asserted by the accused requires no burden on his part as to the weight of evidence he must produce to be entitled to such defense. Rather, such defense may be asserted merely with the intent to utilize such evidence as he may have in assertion of his right to be acquitted on the claim of failure of the prosecution to have proven each element of the crime "beyond a reasonable doubt",

Your Committee is aware that the issue of affirmative defenses in criminal procedure is one that has attracted much legal scholarship in recent years. See Affirmative Defenses in Ohio after Mullaney v. Wilbur, 36 Ohio State Law Journal, 828 (1975); The Restoration of In re Wisslip: A Comment on Burdens of Persuasion in Criminal Cases after Palleism v. New York, 76 Mich. Law Rev. 30 (1977); The Constitutionality of Affirmative Defenses to Criminal Charges, 29 Ark. Law Rev. 429 (1976).

The heart of the controversy in the issue of "affirmative defense" lies in the time-honored rule in criminal jurisprudence that in protection of the innocent, the prosecution must prove each element of the crime beyond a reasonable doubt. The arguments directed against affirmative defenses are that they dilute the prosecution's burden in this regard and swing the balance of the criminal trial against the presumption of innocence.

However, legal scholarship generally favors the resort to affirmative defenses where "the relative accessibility of evidence to the defendant justifies calling upon him to put

in evidence concerning his defensive claim." La Fave and Scott, Criminal Law, 1972 at page 154.

The converse of the reasoning is addressed to the question whether the nature of the defense would negate an element of the crime and thus nullify the normal prosecutorial burden. See 36 Ohio State Law Journal at 838, also La Fave and Scott, at page 154.

Your Committee notes that the defense of self-defense, as with the defenses of duress and choice of evils, admit the commission of the act charged with all necessary elements, but seek to interpose the existence of a state of facts that would provide the basis of acquittal. It is our view, accordingly, that the accused should have the burdens of coming forward with the evidence and of establishing such defense by the preponderance of evidence for the claim of self-defense. In this regard, H.B. No. 405 is in accord with the law in Ohio.

We also note that the nature of the defenses to be governed by H.B. No. 405 are essentially accessible to the accused, such that fairness would require the burden of fact finding should rest with the accused.

Your Committee is aware that the Arkansas Supreme Court had held to the contrary in Mode v. State, 330 S.W. 2d 88 (1959). That decision ruled that the defendant could not be required to bear the burden of proof on the defense of self-defense because it would tend to rebut the element of malice. We think, however, that the discussion found in an article in the Ohio State Law Journal is better reasoned. It says:

"If any class of defenses deserves the title of "affirmative," it is those defenses that admit the commission of the act charged with the necessary mental element, but seek to interpose the existence of a state of facts that, if true, would provide a complete exculpation. The traditional defenses of duress, necessity and self-defense are common examples. Unless one is willing to draw the concepts of volitional act and mental element quite broadly, these defenses do not negate either concept. In that respect they are analogous to the common law of confession and avoidance; they admit the truth of the facts pleaded but offer an excuse." 36 Ohio State Law Journal 828, at 840-41.

Your Committee also notes that H.B. No. 405 does not include some of the other defenses under chapter 703, Hawaii Revised Statutes, within its ambit. We would hope that experience under H.B. No. 405, if enacted, may provide the quantum of experience by which a future legislature may consider expanding the concept of affirmative defense.

Your Committee has made certain nonsubstantive, technical amendments to this bill to clarify its legal effect.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 405, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 405, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Mizuguchi and Carroll. Senators Cobb and Chong did not concur.

SCRep. 880 (Majority) Judiciary on H.B. No. 520

The purpose of this bill is to allow a minor to seek medical care and services relating to pregnancy and family planning. Presently, minors may obtain medical care and services for diagnosed pregnancy or venereal disease without parental consent. This bill further allows the physician discretionary authority to inform a minor's spouse, parent, custodian or guardian regarding services rendered to a minor, after the physician has consulted with the minor to whom the services are given.

Central to the problem sought to be resolved by H.B. No. 520, H.D. 1, S.D. 1 is a seeming confrontation between the important rights of minors and the rights of their parents. There has been nothing so sacred in the lives of the people of Hawaii than the cherished relationship between children and their parents.

Your Committee notes that the question raised by H.B. No. 520, H.D. 1, S.D. 1 has been very ably briefed by both sides of the question, and we express our thanks to all persons who have contributed in that regard. We would also observe that we are aware of the status of Doe v. Irwin, 441 F.Supp. 1247 which is presently on appeal to the sixth circuit court, and the present litigation locally by Kaneshiro v. Yuen, Civil No. 78-0023 in the United States district court for the district of Hawaii.

We do not intend that H.B. No. 520, H.D. 1, S.D. 1, when enacted, should be implemented in disregard of the rights of parents to communicate with and give appropriate guidance

to their adolescent children respecting family planning. In fact, we cannot urge more insistently that every parent should do so, realizing that for some of us it may be a difficult and delicate endeavor.

Your Committee's main focus of concern is not upon parents who would seek to exercise their right to give appropriate guidance to their children. Rather, your Committee's concern falls upon the adolescent young women who either lack such guidance, or who are, for various reasons, unable to "tune in" to such counsel. We think that parents who are able to reach their children will not suffer by this bill, and that those whose children would not hear their counsel will be grateful if such counsel reached their wards through competent professional sources.

Having reviewed the many decisions on the subject, we have observed the cases to be divided with the growing majority viewing the need to protect minors from unwanted pregnancies and their attendant right of privacy as having precedence over the right of parental participation in shaping the course of their ward's development of their competency to make right decisions in their own welfare.^{1/} Viewed in terms of conflicting rights, it becomes necessary to conclude in terms of one set of rights prevailing over the other. We think the fault rests in the style of rhetoric which appears to pervade legal discussion over this and peripheral areas.

We view our concern in terms of the practical -- of what we want for our society and for each individual. We do not want unwanted pregnancies and abortions for any female person. We do want our children to obtain their counsel from their parents whenever the lines of communication between them are open and available. We know that family planning is certainly among the most difficult subject matters to be communicated between parents and children.

Consequently, although we acknowledge the need for lawyers and the courts to address their concern in terms of conflicting constitutional rights, we find it necessary to analyze the problem in terms of relative responsibilities. It is the responsibility of the young female to avoid an unwanted pregnancy and abortion. It is the responsibility of parents to counsel their young in that regard. Where communication is unavailing between them, it is the legislature's responsibility to provide the process whereby unwanted pregnancies and abortions may be avoided. Finally, it is the responsibility of those who administer the process to take reasonable measures to "seek to open lines of communication between parent and child."

Your Committee is aware that inquiry may reveal in some cases that the minor applicants may well have misjudged the supportive desire of their parents, and that in others, adverse parental reaction may be injurious to the best interest of the minor. What we expect is that those who take on the responsibility of such inquiry will be fully mindful of the delicate task entrusted to them.

Your Committee has amended H.B. No. 520, H.D. 1, S.D. 1 to simplify the definition of "family planning services."

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 520, 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. 520, H.D. 1, S.D. 2.

^{1/} Generally, see T. H. v. Jones, 425 F.Supp. 873 (1975); Casey v. Population Services International, 431 U.S. 678 (1977); Coe v. Gerstein, 517 F.2d 787 (5th Cir. 1975); State v. Koome, 530 P.2d 260 (1975); Baird v. Bellotti, 393 F.Supp. 847 (1975); Bellotti v. Baird, 428 U.S. 132 (1976); Baird v. Bellotti, 450 F.Supp. 997 (1978). Compare Doe v. Irwin, 428 F.Supp. 1198 and Doe v. Irwin, 441 F.Supp. 1247 (1977); also dissenting opinion in T. H. v. Jones, 425 F.Supp. at 882; State v. Koome, 530 P.2d at 270; and Baird v. Bellotti, 450 F.Supp. at 1006. See also, "Child, Parent, State, and the Due Process Clause: an Essay on the Supreme Court's Recent Work," 51 So. Cal. Law Review 769 (July 1978); and "Minor's Right of Privacy versus Parental Right of Control," 1976 Brigham Young Law Review 296.

Signed by all members of the Committee except Senators Mizuguchi and Carroll.
Senator Campbell did not concur.

SCRep. 881 Judiciary on H.B. No. 608

The purpose of this bill is to facilitate the effective investigation of welfare fraud and other crimes relating to public assistance.

Your Committee acknowledges the very able treatment of this bill in Standing Committee Report No. 677, submitted by your Committee on Human Resources.

We are in agreement that persons who abuse public assistance should not be allowed to circumvent lawful prosecution by use of privacy acts or other laws which were designed for totally different purposes. Your Committee has accordingly reviewed this bill for legal content and finds it proper.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 608, S.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Mizuguchi and Carroll.

SCRep. 882 Judiciary on H.B. No. 696

The purpose of this bill is to require the Department of Health to issue birth certificates for foreign born children adopted in this State.

Under the present law, unlike adopted children born in Hawaii, birth certificates are not issued to foreign born children after they have been adopted.

H.B. No. 696, H.D. 1, S.D. 1 would amend the present law to require the Department of Health to establish a Hawaii certificate of birth after the adoption of a foreign born child has been granted by the family court and after pertinent information such as the child's birthdate and place of birth has been presented to the Department.

Your Committee has received testimony from several parents of foreign born children who urge passage of this bill. It is the finding of this Committee that 29 states already have a procedure by which to issue birth certificates to foreign born children and due to the large number of such children living in this State, such a procedure is greatly needed in Hawaii.

H.B. No. 696, H.D. 1, S.D. 1, has been amended in its entirety to detail the steps involved in the request of a new birth certificate for a foreign-born child, as well as listing the kinds of information required by the department of health before such birth certificate can be issued.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. 696, 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. 696, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Mizuguchi and Carroll.

SCRep. 883 (Majority) Judiciary on H.B. No. 1004

The purpose of this bill is to require any accused in a criminal prosecution who seeks to interpose the defense of duress provided by section 702-231, Hawaii Revised Statutes, to carry the burden of proving such defense by a preponderance of the evidence.

At the present time, such defense when asserted by the accused requires no burden on his part as to the weight of evidence he must produce to be entitled to such defense. Rather, such defense may be asserted merely with the intent to utilize such evidence as he may have in assertion of his right to be acquitted on the claim of failure of the prosecution to have proven each element of the crime "beyond a reasonable doubt".

Your Committee is aware that the issue of affirmative defenses in criminal procedure is one that has attracted much legal scholarship in recent years. See Affirmative Defenses in Ohio after Mullaney v. Wilbur, 36 Ohio State Law Journal, 828 (1975); The Restoration of In re Wisslip: A Comment on Burdens of Persuasion in Criminal Cases after Palleism v. New York, 76 Mich. Law Rev. 30 (1977); The Constitutionality of Affirmative Defenses to Criminal Charges, 29 Ark. Law Rev. 429 (1976).

The heart of the controversy in the issue of "affirmative defense" lies in the time-honored rule in criminal jurisprudence that in protection of the innocent, the prosecution must prove each element of the crime beyond a reasonable doubt. The arguments directed against affirmative defenses are that they dilute the prosecution's burden in this regard

and swing the balance of the criminal trial against the presumption of innocence.

However, legal scholarship generally favors the resort to affirmative defenses where "the relative accessibility of evidence to the defendant justifies calling upon him to put in evidence concerning his defensive claim." La Fave and Scott, Criminal Law, 1972 at page 154.

The converse of the reasoning is addressed to the question whether the nature of the defense would negate an element of the crime and thus nullify the normal prosecutorial burden. See 36 Ohio State Law Journal, at 838; also La Fave and Scott, at page 154.

Your Committee notes that the defense of duress admits the commission of the act charged with all necessary elements, but seeks to interpose the existence of a state of facts that would provide the basis of acquittal. It is our view, accordingly, that the accused should have the burdens of coming forward with the evidence and of establishing such defense by the preponderance of evidence for the claim of this defense. In this regard, H.B. No. 1004 is in accord with the law in Ohio.

We also note that the nature of the defense to be governed by H.B. No. 1004 is essentially accessible to the accused, such that fairness would require the burden of fact finding should rest with the accused.

Your Committee is aware that the Arkansas Supreme Court had held to the contrary in Mode v. State, 330 S.W. 2d 88 (1959). That decision rules that the defendant could not be required to bear the burden of proof on the defense of self-defense because it would tend to rebut the element of malice. We think, however, that the discussion found in an article in the Ohio State Law Journal is better reasoned. It says:

"If any class of defenses deserves the title of "affirmative," it is those defenses that admit the commission of the act charged with the necessary mental element, but seek to interpose the existence of a state of facts that, if true, would provide a complete exculpation. The traditional defenses of duress, necessity and self-defense are common examples. Unless one is willing to draw the concepts of volitional act and mental element quite broadly, these defenses do not negate either concept. In that respect they are analogous to the common law of confession and avoidance; they admit the truth of the facts pleaded but offer an excuse." 36 Ohio State Law Journal, 828 at 840-41.

Your Committee has made certain nonsubstantive, technical amendments to this bill to clarify its legal effect.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1004, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1004, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Mizuguchi and Carroll.
Senator Cobb did not concur.

SCRep. 884 Judiciary on H.B. No. 1341

The purpose of this bill is to amend Section 516-1(5), Hawaii Revised Statutes to amend the definition of "lease".

The amendment reduces the term of a lease from thirty-five to twenty years from the initial date of conveyance. This reduction in the length of the term of the lease will permit a greater number of lessees to enjoy the rights and privileges of Chapter 516, especially the right to petition for condemnation and acquisition of the fee title.

Your Committee heard testimony respecting the need to accommodate persons who have purchased a residential lot in a development tract after it has been designated for purchase under Chapter 516. We amended H.B. No. 1341 to accommodate a redesignation of such tract for further purchase of lots whenever five or more lots or 5 per cent of the lots in such tract, whichever is less, shall apply for redesignation.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1341, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1341, S.D. 1.

Signed by all members of the Committee except Senators Mizuguchi and Carroll.

SCRep. 885 Judiciary on H.B. No. 1449

The purpose of this bill is to add an enforcement provision to the union label law. Under this bill, any person in violation of the union label law could be required to pay damages not less than \$250 nor more than \$5,000. In addition, he would be required to pay all costs and attorney's fees.

The Union Label of the Graphic Arts International Union (GAIU) is registered with the patent office of the United States Department of Commerce to protect the design and its use under the federal laws covering trade marks and labels. In order to conform with the various State laws in the United States and to further protect the label, it is also registered with each of the 50 States. The Union Label indicates that the workmanship was produced by Union members and that the employees were covered by a collective bargaining contract including a Union Label license agreement whose label is registered with the Department of Regulatory Agencies, State of Hawaii.

The Union has encountered fraudulent use of the Union Label. The label was printed on products from open shops (unorganized firms) with the intent of misleading the public about the products being produced by skilled union members. The amendment to Section 482-4, Hawaii Revised Statutes, would penalize the violator with legal costs incurred by the filing party and would also seek damages of not less than \$250 nor more than \$5,000 which is the penalty incurred under the federal statutes dealing with copyright violations.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1449, S.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Mizuguchi and Carroll.

SCRep. 886 Judiciary on H.B. No. 1499

The purpose of this bill is to facilitate coordination of the trust, uniform probate code, and professional corporations provisions of the Hawaii Revised Statutes, and to ensure that professional corporations qualifying as trustees shall be subject to the fiduciary duties applicable to trustees.

Certain provisions of the Hawaii Revised Statutes, including primarily the professional corporation statute, have been expanded to cover persons who are appointed trustees and would like to be able to form professional corporations.

Your Committee felt that H.B. No. 1499, H.D. 1, would benefit any trust concerned because it would aid in the attraction of the most qualified individuals and encourage them to accept trustee appointments by providing the same types of benefits available in corporations generally. It should be made perfectly clear, however, that it is not the intention of your Committee to allow trustees and personal representatives to escape liability by incorporating.

Your Committee has amended H.B. No. 1499, H.D. 1, to also allow trust companies engaged in trust transactions to hold securities in bulk, provided that transfer of interests of portions of such bulk shall be confirmed by appropriate bookkeeping entries and certification of individual deposits and holdings shall be made on demand of the depositors.

Your Committee on Judiciary 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 be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Mizuguchi and Carroll.

SCRep. 887 Judiciary on H.B. No. 1658

The purpose of this bill is to update the list of controlled substances as required by section 329-11(e), Hawaii Revised Statutes, to set up a system for the Department of Health to publicly announce and make available to the public copies of any changes to the schedules, to add a new subsection regarding the preparation of prescriptions, and to add provisions to the Penal Code to assist investigators in properly performing their duties.

Your Committee concurs with your Committee on Health that the House draft brings Hawaii's controlled substances schedules into conformity with the federal schedules.

Your Committee has amended the bill by correcting a typographical error found in Section 3 of H.B. No. 1658, H.D. 1. The correction in no way alters the intent or purpose of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1658, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1658, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senators Mizuguchi and Carroll.

SCRep. 888 Transportation on H.B. No. 189

The purpose of the bill is to authorize the Director of Transportation to appoint volunteer boating enforcement officers, without pay, to enforce the State Boating Law (Chapter 267, H.R.S.). This bill confers upon the boating enforcement officers the powers of police officers for the purpose of carrying out the provisions of Chapter 267 including the power to serve and execute warrants, arrest offenders, serve notices and orders, and to stop, board, investigate, and inspect vessels.

The Director of Transportation testified that there are ten employees on Oahu that engage in the enforcement activities on a full-time basis. A total of nine additional full-time boating law enforcement officers have been authorized for employment for a one-year period under a federal grant to enable the State to carry out the Coastal Zone Management responsibilities.

Your Committee finds that boating activities for sporting and recreational purposes have increased significantly during the past ten years and the enforcement staff is insufficient to effectively enforce the boating safety and small boat harbor laws and regulations throughout the State. Your Committee firmly believes that the Director of Transportation should have the statutory power to enter into a contract with corporations authorized to engage in business in the State to aid in enforcing the provisions of Chapter 267, H.R.S. and all rules and regulations pursuant to this chapter in specified areas providing that the corporations agree to undertake this activity at no expense to the State. Your Committee amended Section 1 of the bill to conform with this intent.

Your Committee is in agreement with the Department of Transportation that the boating enforcement officers must be trained in law enforcement, boating and safety procedures and because of the training requirements, has amended the bill to limit the number of officers to no more than ten. The Director of Transportation may adopt rules to insure that persons appointed as boating enforcement officers are properly trained in law enforcement procedures and knowledgeable in the State Boating Law.

Your Committee believes that the enforcement officers should not be considered state employees and that the State should not be held liable for their actions. Your Committee agrees with the amendment of Section 662-15, H.R.S. creating an exception to the State Tort Liability Act for boating enforcement officers appointed under Section 267-6.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 189, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 189, H.D. 1, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 889 Transportation on H.B. No. 1143

The purpose of this bill is to specify the membership of the Metropolitan Planning Organization (MPO), executive committee, the functions of the chairperson and the requirements of the decision-making process.

The present statute provides that the Metropolitan Planning Committee shall consist of a policy committee and appropriate staff. The policy committee consists of nineteen members: nine members of the legislative body of the appropriate county; five members of the state senate who are residents of the county and who are appointed by the senate president; and five members of the state house of representatives who are residents of the county and who are appointed by the speaker of the house.

The statute also provides that whenever the Metropolitan Planning Organization makes a decision concerning input to any of its advisory plans or procedures, there shall be at least seven legislative members and five city or county council members of the policy committee present. In addition, the statute provides that the decision must be made by a majority vote of the entire membership of the MPO.

Your Committee finds that the statutory requirements on decision-making on matters before the policy committee is very ineffective and inefficient. In the past no action could be taken in some instances because the statutory requirements were not met. It is your

Committee's belief that the issues are of vital importance and decisions must be timely. Your Committee amended the bill by retaining the original statutory provisions; deleting the requirements as to certain members being present; and providing that the decision must be made by a majority vote of the members present. It is the intent of the Committee that decisions can be made at every meeting of the policy committee as required.

Your Committee finds that the provisions contained in Section 1 which create an executive committee is presently provided for elsewhere and is unnecessary.

Your Committee further finds that the provisions of Section 2 requiring that the chairperson of the MPO policy committee serve also as chairperson of the executive committee is no longer necessary since the provisions of Section 1 were deleted.

Your Committee further finds that the inclusion of Section 4 is not required as the approved amendments clearly state the requirements of decision-making.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1143, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1143, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 890 Transportation on H.B. No. 1432

The purpose of this bill is to clarify the requirements for issuance of moped operator licenses to include certain safety requirements for mopeds.

Your Committee finds that the present statute states that no person shall drive a moped unless he has a valid drivers license as listed in Sections 286-102 and 286-105(3), Hawaii Revised Statutes. There are a number of individuals who want to operate a moped as a means of transportation but have no need to obtain a driver's license to operate a motor vehicle. Your Committee finds that requiring these individuals to obtain a motor vehicle license in order to operate a moped is unrealistic and does not contribute to their ability to operate a moped.

Your Committee has amended this bill to provide for a "moped only" driver license. Your Committee finds that the provision for licensing moped drivers in the motor scooter category creates a cumbersome regulatory process and potential safety hazards by permitting the operation of a vehicle with greater speed potential.

Your Committee has further amended this bill to include the establishment of a safety inspection program for mopeds.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1432, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1432, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 891 Public Utilities on H.B. No. 181

The purpose of this bill is to simplify procedures in applying for a reconsideration or rehearing of an order or decision of the PUC for motor carriers under Chapter 271, Hawaii Revised Statutes.

Your Committee finds that presently the provisions in the Public Utilities Law dealing with reconsideration or rehearing have resulted in some confusion.

Your Committee finds that this bill allows parties to apply once for reconsideration or rehearing of any matter determined in the proceeding by specifying in a motion for reconsideration or rehearing. Motions must be filed within ten days after the decision has been served.

Your Committee amended the automatic stay provision found in subsection (b), page 2, line 5 through lines 17 by deleting it in its entirety because of a conflict in another statutory provision. Motor carriers have a "file and suspend" provision which permits rates to be placed into effect after a thirty day waiting period or after the maximum statutory suspension period of five months.

Your Committee further amended the bill by retaining subsection (d) on page 3, line 8 through 14 that provides that if no determination is made on the application for reconsideration or rehearing within twenty days after final submission, the parties to the proceedings may conclude that the order involved is affirmed.

Your Committee further amended the bill by deleting subsection (e) on page 4 in its entirety as the present Section 271-33, H. R. S., adequately provides for the appeals procedure.

Your Committee on Public Utilities is in accord with the intent and purpose of H.B. No. 181, H.D.1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 181, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 892 Judiciary on H.B. No. 428

The purpose of this bill in the form of H.B. No. 428, H.D. 1 is to provide a means for abating prostitution.

H.B. No. 428, H.D. 1 was taken nearly verbatim from sections 11225 to 11235 of the California Penal Code, with the exception that it is addressed only to the offense of prostitution. Your Committee expanded the ambit of H.B. No. 428, H.D. 1, and in the form of S.D. 1, it is amended to operate in abatement of all of the offenses covered by parts I and II of chapter 712, Hawaii Revised Statutes; namely, prostitution, display of indecent matters, promotion of pornography and promotion of child pornography.

Under S.D. 1 of H.B. No. 428, H.D. 1, the activity or conduct of maintaining a place for the purpose of allowing offenses under parts I and II of chapter 712 constitutes the nuisance to be abated. Procedurally, a suit is allowed to be filed seeking abatement. When the existence of such nuisance is shown by verified petition or affidavit, the court is allowed to issue a temporary writ and the matter is given preference for immediate hearing. If the existence of nuisance is proven at such hearing, the court issues an order of abatement and may close the premises down for up to one year. At this point, if the owner of the premises continues the nuisance in violation of the order of abatement, he may be found in criminal contempt. If the owner is not in contempt, he is allowed to appear and pay all costs incurred in the closing of the place, and if the court is satisfied of his good faith, it may order the cancellation of the order of abatement.

Additionally, H.B. No. 428, H.D. 1, S.D. 1 makes all costs imposed against any owner of a place used for nuisance purposes to be a lien on the place, and requires the owner to notify the lessee that his lease will be revoked if the nuisance is continued.

Your Committee, in addition to expanding the scope of offenses to be abated, made the following changes:

1. The contempt provision has been moved to section 710-1077, making it a criminal contempt with a penalty of a minimum fine of \$400 and a maximum of \$5,000, or imprisonment for one to six months, or both.
2. The definition of "person" has been deleted as the same is already provided by section 701-118(7).
3. The provision requiring notice of revocation by the owner to the lessee has been amended to require the court to give appropriate consideration to such notice and other actions taken by the owner to terminate the nuisance in any criminal contempt action that may be brought against the owner.

Your Committee notes that the provision in H.B. No. 528, H.D. 1 requiring the owner to give notice to the lessee regarding the revocation of the lease is not part of the California law. We agree with the desirability of placing a burden on the owner to take appropriate action against the lessee to abate the nuisance. However, a categorical mandate requiring notice of revocation may raise complex legal problems regarding impairment of contractual obligations, particularly where a chain of subleases are involved.

Accordingly, your Committee has amended this provision by H.B. No. 428, H.D. 1, S.D. 1 to require the court when deliberating upon criminal contempt by the owner to give appropriate consideration to such notice and other actions as the owner may or may not have taken to abate the nuisance. Such a treatment prevents the imposition of penalty against the owner who may not have technically given notice but who, under peculiar

circumstances, may have taken other reasonable and possibly more effective measures to abate the nuisance, and thereby acted in demonstrated good faith.

It should be noted that H.B. No. 428, H.D. 1, S.D. 1 does not address itself to the other offenses covered by chapter 712; most particularly, gambling and drug offenses. H.B. No. 428, H.D. 1 did not include these offenses and your Committee did not have the opportunity to receive testimony in that regard. Further study and experience under H.B. No. 428, H.D. 1, S.D. 1 if enacted may dictate the expansion of the scope of this act to cover all offenses addressed by chapter 712.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 428, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 428, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 893 Judiciary on H.B. No. 102

The purpose of this bill is to conform the Hawaii Revised Statutes to section 12 of Article XVI of the Hawaii Constitution.

Your Committee observes that conformity of the Hawaii Revised Statutes requires amendment to two separate areas. One is the "adverse possession" provisions of part II of chapter 657 and the other is the "quiet title" provisions of chapter 669.

The bill eliminates obtaining title to land by "adverse possession" for land parcels of more than five acres, but preserves the same for land parcels of five acres and less. In other words, title to land may still be obtained by adverse possession for land parcels of five acres and less.

As for land parcels of more than five acres, the bill is drafted to apply prospectively. Accordingly, where adverse possession of twenty years had matured previous to the voters' ratification of section 12 of Article XVI on November 7, 1978, such claim could still be enforceable under this bill.

Your Committee has amended this bill to add a new section, Section 657-31.5, to the Hawaii Revised Statutes. This was done as Section 657-31 relates to more than just adverse possession, and to include this language in this section would detrimentally affect these other applications of the law.

The time period of adverse possession was also amended to include those who had a claim based on ten years possession prior to May 4, 1973. This was done to accommodate those with claims prior to revisions of the law in 1973. Section 669-1 was also amended in similar fashion, for clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 102, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 102, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 894 Judiciary on H.B. No. 424

The purpose of this bill is to make tampering with a motor vehicle without the consent of the owner or person in charge thereof criminal tampering in the second degree, a petty misdemeanor.

Under present law tampering with the vehicle of another is not unlawful unless it can be shown that there was a concomitant intent to commit a crime or cause injury. This bill would make the tampering in and of itself a crime, but provide for exceptions for police officers and other emergency personnel, tow wagon operators, and private individuals extricating their vehicles from parking locations.

Your Committee received testimony that auto thefts continue to increase and that such thefts may be substantially reduced if this bill became law because it would enable law enforcement personnel to apprehend persons observed tampering with another's vehicle without authorization.

House Bill No. 424, H.D. 1, was amended to reflect certain technical changes to improve the clarity of the language in the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 424, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 424, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 895 Judiciary on H.B. No. 556

The purpose of this bill is to specifically include the director of the office of consumer protection within the provisions of section 480-22, Hawaii Revised Statutes, relating to consent judgments or decrees obtained pursuant to actions brought by the director under section 480-2, Hawaii Revised Statutes.

In 1975, section 480-20, Hawaii Revised Statutes, was amended to provide the director of the office of consumer protection and the attorney general with concurrent jurisdiction to enforce section 480-2, Hawaii Revised Statutes. Testimony provided by the director of the office of consumer protection indicated that the bill is necessary to clarify section 480-22, Hawaii Revised Statutes, so there is no question of the authority of the director of the office of consumer protection to obtain consent judgments or decrees.

Your Committee has amended the bill to require the consent of the Attorney General for action by the director of the office of consumer protection in this area. This amendment is added to the bill to provide a means of coordinating the concurrent jurisdiction of the attorney general and the director of the office of consumer protection.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 556, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 556, S.D. 2.

Signed by all members of the Committee.

SCRep. 896 Judiciary on H.B. No. 583

The purpose of this bill is to improve the enforcement of the statewide litter control program by redefining some terms, clarifying violations, and increasing the maximum fine for offenses.

Your Committee has amended the penalty provision by deleting the mandatory minimum requirement of not less than \$10.

Your Committee intends that the provisions of this bill should not prohibit or discourage community organizations from collecting roadside litter and depositing it in plastic bags for subsequent pick-up. We are encouraged that we do have people in our community who participate in such community endeavors, caring enough for the beauty of our islands.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 583, 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. 583, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 897 Judiciary on H.B. No. 723

The purpose of this bill is to revise section 661-7, Hawaii Revised Statutes, which provides for the forfeiture of a fraudulent claim made against the State.

The bill provides that a person who commits fraud in the proof, statement, establishment or allowance of any claim against the State shall forfeit the claim to the State. As provided in the bill, it is the intent of your Committee that when an action is brought against the State to recover on such a claim, the court hearing the case shall also determine whether (1) fraud was committed or attempted to be committed; (2) the claim shall be forfeited to the State; and (3) the claimant shall be forever barred from prosecuting the claim.

Your Committee has amended the bill in order to amend section 661-7, Hawaii Revised Statutes, to conform to recent case law interpreting the provision. In Associated Engineers and Contractors, Inc., and Chris Berg, Inc. v. State of Hawaii, 58 Haw. 187, 567 P2d 399 (1977), the Supreme Court of the State of Hawaii, in an opinion by Justice Kidwell examined section 661-7, Hawaii Revised Statutes. The court stated that any defense raised by the State under this section is an affirmative defense.

Second, the court provided that fraud is a complete defense under this section. Finally,

the court stated unequivocally, "The defense of fraud under the statute, (Section 661-7, Hawaii Revised Statutes), must be supported by clear and convincing evidence." 58 Haw. 187 at 222, citing Law v. United States, 195 Ct. Cl. 370, 440 (1971). Your Committee has amended subsection (b) of section 661-7, Hawaii Revised Statutes, to clarify the statute accordingly.

Your Committee wishes to note that it has researched section 661-7, Hawaii Revised Statutes, back to the Constitution and Laws of the Republic 1894-5 when it was first enacted and finds that Associated Engineers v. State, (1977) is the only case to ever use and interpret this statute.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 723, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 723, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 898 Judiciary on H.B. No. 921

The purpose of this bill is to enable an abused spouse or any person residing with another to obtain a court order restraining that other person from contracting, threatening or physically abusing him or her. Under present law such a restraining order is normally granted only after an action for annulment, divorce, or separation has been commenced.

Your Committee feels that a comprehensive statutory treatment of efforts to present domestic violence is in order. However, we note a definite flaw in H.B. No. 921, H.D. 1, in that it fails to provide for the giving of notice to all parties in conjunction with the hearing for order to show cause. We have amended the bill to correct such flaw and to simplify the language respecting the applicant's right to use private counsel.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 921, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 921, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 899 Judiciary on H.B. No. 923

The purpose of this bill is to reduce the growing number of books and other library materials which are borrowed from the State libraries and never returned by establishing sanctions against persons who wilfully fail to return these materials.

Sanctions against persons who wilfully detained books and other library materials were repealed when the Penal Code was enacted in 1973. While the Penal Code of 1973 addressed the problem of unlawful removal of books and other library materials, it did not cover wilful detention.

Your Committee has amended H.B. No. 923, H.D. 1 because it feels that the wilful detention of books and other library materials does not constitute a criminal offense. Instead, it advises that the penalties for the wilful detention of books and other library materials should be established by the agency or department that administers State libraries, which could best determine the appropriate civil penalties commensurate with wilful detention.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 923, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 923, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 900 Judiciary on H.B. No. 988

The purpose of this bill is to coordinate the efforts of the government and private insurers in arson investigation to combat the growing incidence of arson-for-profit fires in Hawaii. If adopted, the bill will provide civil and criminal immunity to insurers and others when they provide certain information pertinent to arson investigations to law enforcement officials.

According to testimony presented to your Committee by the Fire Investigation Unit of the Honolulu Fire Department, Honolulu has recently experienced an alarming increase in malicious fires. Maliciously started structural fires have increased from 251 in 1975 to 333 in 1976, to 356 in 1977, and finally to 376 in 1978. Dollar losses within this four-

year period have increased from \$1,483,000 in 1975 to \$4,346,000 in 1978. These statistics only reflect malicious burning of structures. It is clear to your Committee that greater law enforcement assistance is needed in this area.

It has been shown across the nation that one of the prime motives in committing arson is the filing of fraudulent insurance claims. This bill will give county fire investigation units access to insurance records presently closed to protect the privacy of insurance claimants. Inflated or sudden changes in insurance coverage, or a history of fire loss claims usually indicates a need for closer investigation. In reviewing and piecing evidence together, the lack of insurance records and other evidence gathered by insurers has always left a void in carrying out a full fire investigation. Passage of this bill will fill this void.

Your Committee is not unconcerned with the possible infringement of privacy of citizens. However, fire investigations have always been conducted in strict confidence. The privacy of unfortunate but law-abiding citizens who suffer fire losses will remain protected with the adoption of this bill.

Your Committee has amended the bill by:

- (1) Deleting the word "request" and inserting the word "require" on line 6, page 1, of the bill as received;
- (2) Deleting the word "requested" and inserting the word "required" on line 6, page 2, of the bill as received; and
- (3) Making three style changes on lines 5, 6, 7, and 9, page 1, of the bill as received.

Amendments (1) and (2) give the chief of police of each county the authority to require insurers to provide information and cooperation. These changes are intended to clarify that when required in writing an insurer's assistance is not discretionary on its part.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 988, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 988, S.D. 1.

Signed by all members of the Committee.

SCRep. 901 Judiciary on H.B. No. 1216

The purpose of this bill is to clarify provisions relating to the scope of Article 9 of the Uniform Commercial Code, chapter 490, Hawaii Revised Statutes, and the re-filing and re-recording requirements of Article 11 when the perfection of a security interest lapses by operation of law.

Your Committee has amended the bill by:

- (1) Inserting a new section 1 to amend Article 9 by excluding from the scope of its coverage deposit accounts (section 490:9-105(e)), except with respect to proceeds (section 490:9-306) and priorities (section 490:9-312). Your Committee believes this change is a necessary and consistent clarification of Article 9.
- (2) Making corresponding technical changes consistent with (1).

Your Committee finds that Section 2 of H.B. No. 1216, H.D. 1, S.D. 1, would correct what appears to be a drafting error in Act 155, Session Laws of Hawaii 1978, relating to the re-filing requirements of Article 11. Your Committee is aware of the intent of Article 11 to provide transitions necessitated by the various amendments made to the Code by Act 155 for existing perfected interests. Your Committee is in agreement with the intent of this bill to correct those apparent inadvertent mistakes.

Your Committee has added a section indicating the effect of underscoring and bracketing.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1216, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1216, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 902 Judiciary on H.B. No. 1382

The purpose of this bill, as received by your Committee, is to (1) include in the offense of terroristic threatening, a threat to commit a felony and (2) increase the severity of the offense from a misdemeanor to a class C felony in three aggravated situations; (a) a pattern of conduct involving the use of threats against one or more persons; (b) a threat made to a public servant; or (c) when a dangerous instrument, such as a firearm or explosive, is used in connection with the threat.

Your Committee has amended this bill:

(1) By reorganizing the offense into two separate degrees. Accordingly, section 707-715, Hawaii Revised Statutes, has been amended to be a definition of "terroristic threatening", and two new sections (first and second degree of the offense) have been added.

(2) By redrafting the "pattern of conduct" provision of the offense. Under the amended version, the offense will be in the first degree and a class C felony in the cases of repeated threats against a person and of multiple threats involving a common scheme as well as against a public official or with a dangerous weapon.

Your Committee's revision eliminates the phrase "pattern of conduct" and utilizes instead the phrase "common scheme" because it has obtained precise usage in criminal law and procedure. The amended language in this regard requires multiple threats. However, it is intended that a terroristic threat not be classified a felony offense merely because it was directed at more than one person on the same occasion. On the other hand, a common scheme involving the use of threats includes threats made to several victims even if only one threat is made to each victim.

A common scheme involving the use of threats or threats on more than one occasion means that there must be two or more separate incidents, occurring at different times, in which the defendant makes threats against another person or several persons. Repeating the same threat several times or making several different threats, if they occur during the same incident, is not first degree terroristic threatening within the meaning of this bill.

(3) By replacing the term "public official" with "public servant". The term used and defined (section 710-1000(15), Hawaii Revised Statutes) in the Hawaii Penal Code is "public servant". The definition excludes jurors and witnesses. Threats against witnesses and jurors are covered separately in the Code (sections 710-1071 and 710-1074, Hawaii Revised Statutes). In addition, there is a separate offense covering threats against a correctional worker (section 710-1031, Hawaii Revised Statutes). Your Committee notes that both the new sections under this bill and other sections such as 710-1031, 710-1071, and 710-1074 may apply to the same factual circumstances. Threats against witnesses, jurors, and correction workers are all punished as felonies because they have the potential for significantly inhibiting public administration of justice.

Your Committee agrees that this rationale should be applied with equal force to other persons performing governmental functions. However, your Committee believes that use of the term "public official" will confuse the complicated though carefully constructed scheme established in the Penal Code to deal with the use of threats in a variety of situations.

(4) By replacing the phrase referring to a firearm, explosive, or dangerous weapon with the term "dangerous instrument". The change is made because this term is precisely defined (section 707-700(4), Hawaii Revised Statutes) for use in this chapter of the Code.

(5) By making nonsubstantive, technical changes and adding a new section 2 on the effect of underlining and bracketing statutory material.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1382, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1382, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 903 Judiciary on H.B. No. 1494

The purpose of this bill is to amend section 78-1, Hawaii Revised Statutes, with regard to the appointment of nationals or permanent resident aliens to certain state, county or municipal government positions.

Under section 78-1, non-citizens may be employed in state, county or municipal government

positions other than elective or appointive offices. H.B. No. 1494, H.D. 1, S.D. 1 would liberalize these restrictions by allowing non-citizens to be employed in appointive government positions, with the exception of a department head, first assistant, first deputy, second assistant or second deputy to a department head.

Your Committee is aware of the landmark Supreme Court case, Sugarman v. Dougall, 413 U.S. 634 (1973), which held that a state may constitutionally require citizenship as a prerequisite to holding "state elective or important nonelective executive, legislative, and judicial positions, for officers who participate directly in the formulation, execution, or review of broad public policy." 413 U.S. at 647.

In Foley v. Connelie, 435 U.S. 291 (1978), the Supreme Court further defined what government positions could be reserved exclusively for citizens. The Court found that the position of a police officer was one that required the direct execution of broad public policy which under Sugarman could properly be restricted to citizens.

". . . it is because this country entrusts many of its most important policy responsibilities to these officers, the discretionary exercise of which can often more immediately affect the lives of citizens than even the ballot of a voter or the choice of a legislator. In sum, then, it represents the choice, and rights of the people to be governed by their citizen peers. To effectuate this result, we must necessarily examine each position in question to determine whether it involves discretionary decision making, or execution of policy, which substantially affects members of the political community." 435 U.S. at 296.

Your Committee has reviewed H.B. No. 1494, H.D. 1, S.D. 1 in light of these recent Supreme Court cases and finds that it is a very liberal interpretation of present case law following Sugarman, supra, and Foley, supra, with the removal of the restriction of citizenship for most appointive offices.

Accordingly, your Committee has endeavored to amend section 78-1 to withstand constitutional challenge, while restricting the appointment of non-citizens to government positions only in instances where the non-citizen is diligently seeking citizenship.

While this Committee is in agreement with the Committee on Human Resources that certain high level appointive positions should be reserved for citizens, it is our belief that a non-citizen who is otherwise qualified for an appointive government position should not be excluded from consideration for a particular job simply because that person has not met the requirement for application for citizenship but is desirous of becoming a citizen in the near future. However, those non-citizens who, for whatever reason, do not choose to become United States citizens should not have the added benefit of appointive government jobs which may constitutionally be denied to them.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1494, 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. 1494, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 904 Ecology, Environment and Recreation on H.B. No. 1528

The purpose of this bill is to regulate and direct the disposal of solid waste. Testimony by the City indicated that this bill would be necessary in order to facilitate federal and bond financing for the project.

Landfills are proving inadequate as a method of disposing of solid waste. The trash conversion facility being planned for Oahu would serve the dual purpose of waste disposal and energy recovery. In the original conception of the solid waste conversion facility, the purpose of the project was considered to be primarily for disposal. However, the increasing uncertainty of a petroleum supply and the escalating costs increase the importance of energy-production.

Private garbage collectors expressed concern over use of and access to the facility. In the past the trash disposal plan for the City did not include the private garbage collection business. Incidents occurred in which a private garbage truck would have to wait for city trucks to dump trash first or be restricted to certain hours of use of a landfill site. Private trucks were not able to use city owned transfer facilities and consequently had to go all the way to landfill regardless of distance or convenience.

Since this bill envisions a cooperative effort on the part of both the City and private collectors, plans in the future for disposal of waste in the State should include participation from the private collectors. It is not the intent of the bill to carry on the unfair practices

mentioned above.

Your Committee has amended the bill to include the designation of regional disposal sites. If sites are designated it is intended that anyone transporting waste be able to use such sites and that the sites be chosen so as to be cost efficient for the collectors. Other amendments made are of a technical nature for clarification and proper bill format.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 1528, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1528, H.D. 1, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 905 Judiciary on H.B. No. 1557

The purpose of this bill is to expand the scope of the county committees on the status of women by amending section 367-4, Hawaii Revised Statutes.

Under the present law, the county committees are only allowed to gather information on the status of women and to disperse such information to the state commission on the status of women. In practice, however, the county committees have been much more active and have held conferences and workshops, and published and distributed brochures to women throughout the State, as well as engaged in other forms of activities.

By the amendment of section 367-4 to include the wording: "and such other appropriate duties and responsibilities as may be deemed necessary by each county", the county committees may continue as well as expand upon their work within the community.

Your Committee has made technical changes to the form of H.D. No. 1557, H.D. 1.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. 1557, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1557, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 906 Judiciary on H.B. No. 1646

The purpose of this bill is to broaden driver license exemptions to include persons holding valid licenses from the District of Columbia, the Commonwealth of Puerto Rico, Panama Canal Zone, U.S. Virgin Islands, American Samoa, and Guam.

Your Committee feels that this proposed bill will resolve some confusion existing among driver licensing officials as to the persons to be given exemptions under section 268-105, Hawaii Revised Statutes, particularly as it pertains to territories, commonwealths, and possessions of the United States.

House Draft No. 1 of this bill removed the exemption for territories and possessions of the United States proposed in the original bill because of apprehension concerning the driving habits and standards in effect on many underdeveloped native islands. However, your Committee is in accord with testimony of the State Department of Transportation which recommended adding the United States jurisdictions of the Panama Canal Zone, U.S. Virgin Islands, American Samoa, and Guam, all of which have equivalent driver licensing standards. These added jurisdictions are required to have driver license programs which conform to federal highway safety program manual number 5 (Driver Licensing).

Your Committee has amended House Draft No. 1 by adding "Panama Canal Zone, U.S. Virgin Islands, American Samoa, Guam" beginning on page 2, line 9, of the bill as received. This will grant exemption status to other United States jurisdictions without appearing to be discriminatory.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1646, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1646, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 907 Judiciary on H.B. No. 1657

The purpose of this bill is to amend section 327C-1, Hawaii Revised Statutes, by removing

the restrictive wording which requires a neurologist or a neurosurgeon be consulted by the attending physician to determine when a person is dead in cases where artificial means of life support preclude making a determination that respiratory and circulatory functions have ceased. The bill designates the attending physician as the sole individual responsible to make the determination of death in such cases.

The rationale for this change is the recognition that neurosurgeons and/or neurologists are not always available especially in neighbor island hospitals. However, in agreeing to remove the restriction relating to a neurologist or neurosurgeon, your Committee wishes to note that consultation by the attending physician with a neurologist or neurosurgeon before a person is pronounced dead is a prudent safeguard which serves the best interests of all citizens. It is, therefore, the strong preference of your Committee that this procedure be followed in all appropriate cases whenever reasonably possible.

Consistent with this concern, the Committee believes the licensed attending physician should at least be required to consult another licensed physician. We have therefore amended H.B. No. 1657, H.D. 1, S.D. 1, to require consultation by the licensed attending physician with another licensed physician before a person is pronounced dead. Your Committee believes this is an important part of the safeguard the present law provides. Further, the Committee believes this requirement is in the best interest of the patient and the general public and would not unreasonably burden the neighbor islands or the medical profession.

Your Committee has also amended the bill by retaining the requirement provided in the present law for signed statements by the physicians evidencing their opinion. The value of this procedure is obvious without further explanation.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1657, 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. 1657, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 908 Consumer Protection and Commerce on H.B. No. 82

The purpose of this bill is to maximize the effectiveness and efficiency of the Hawaii Regulatory Licensing Reform Act.

Under present law the task of preparing the regulatory impact statement falls on the board or commission which is being reviewed for sunset purposes. This bill would shift this burden along with the preparation of impact statements for statutory chapters relating to professional and vocational regulation that do not create boards or commissions, to the Legislative Auditor.

While in agreement with the intent of this bill, your Committee has amended this bill in the following respects:

1. By retaining the definition of impact statement and renumbering it as paragraph three.
2. By deleting the provisions which entrusts the Legislative Auditor with the responsibility of preparing evaluation reports for each board or commission and by retaining the present law as to the preparation of impact statements with the additional requirement that the impact statements include recommendations for licensing procedures of the particular subject matter of the board or commission in the event of its termination. It is also provided that the impact statement be sent to the Director of Regulatory Agencies and the Consumer Protector.
3. By providing that if an impact statement is not submitted the board or commission may be terminated.
4. By requiring the Director of Regulatory Agencies or the Consumer Protector to submit an evaluation as to whether the public interest requires the board or commission to be reenacted, modified or permitted to expire and to submit a recommendation for licensing procedures of the board or commission in the event of termination.
5. By deleting section 4 of the bill.

Your Committee feels that this bill as amended will better provide for consumer interests to be represented in the aforementioned evaluation and will provide for a more objective viewpoint in assessing the value of the particular board or commission under review.

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

Signed by all members of the Committee except Senator Kuroda.

SCRep. 909 Consumer Protection and Commerce on H.B. No. 166

The purpose of this bill is to provide for substitution of brand name drugs with their generic equivalents, establishment of a State drug formulary and other provisions to facilitate substitution of drugs.

This bill allows the substitution of less expensive generically equivalent drug products by persons doing business in the United States and subject to suit and service of legal process in the United States for brand name drugs with certain exceptions. Such as, the consumer may request otherwise, or the prescriber may specify that the prescription be dispensed as written. The bill also requires substitution according to a prescribed formulary created by a generic substitution board established for the purposes of determining generically equivalent drugs and those without equivalents. Under this bill, pharmacists must notify the consumer as to substitution, price difference and the right of refusal. County prosecutors and the attorney general are authorized to bring actions to enjoin violations of this chapter. Pharmacists making substitutions assume no additional liability under this bill.

Copies of the formulary are required to be mailed to all pharmacies and boards regulating practitioners licensed to prescribe drugs.

Requirement as to the prescriber's permission to substitute are incorporated into all prescription forms. Posting requirements for pharmacies are also included in the bill.

The department of health is required to provide for public education as to the provisions of this bill and to monitor the effects of the bill.

Your Committee has amended the bill to require a copy of the formulary to be sent to each licensed prescriber in the State and to expand public education to include consumers and prescribers of drugs.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 166, 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. 166, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 910 Consumer Protection and Commerce on H.B. No. 173

The purpose of this bill is to provide that Consumer retail liquor prices not be statutorily set at a minimum level as is currently being done by section 281-18 of the HRS. This bill also repeals section 281-43 relating to wholesale price posting.

Your Committee is in agreement that eventual repeal of sections 281-18 and 281-43 is necessary for the following reasons:

1. A substantially similar provision to section 281-18 in California was held to be unconstitutional by the California Supreme Court. The legality of section 281-18 has also been challenged in Hawaii in U.S. District Court and a preliminary injunction has been issued.
2. With passage of the Consumer Goods Pricing Act of 1975, Congress repealed fair trade enabling legislation. There is now no federal antitrust exemptions that permit states to enact fair trade laws.
3. Free and open competition, under Hawaii's antitrust laws, is the rule of business in this State. Minimum consumer prices (281-18) and wholesale price posting (281-43) run counter to the intent of free and open competition.
4. Repeal of sections 281-18 and 281-43 will probably result in the lowering of consumer prices for liquor.

Your Committee has amended this bill so as to effectively retain wholesale price posting for one additional year for each manufacturer, rectifier, and wholesaler selling or distributing

liquor within the State who is appointed by the brand owner as exclusive agent in writing for management purposes. It is anticipated that all parties concerned will carefully review the matter during the ensuing year.

An agreement has been reached by representatives of the wholesale liquor industry in Hawaii, the Liquor Commission of the City and County of Honolulu, and the Antitrust Division of the Office of the Attorney General which provides that posted wholesale prices are not to be made available to competitors prior to their effective date in order to prevent potential price fixing. The changes as brought about by this bill have the approval of the Antitrust Division of the Attorney General's Office.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 173, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 173, H.D. 1, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 911 (Majority) Consumer Protection and Commerce on H.B. No. 177

The purpose of this bill is to provide the Office of Consumer Protection with the power to enjoin unlicensed activities within the meaning of Section 487-13(a), Hawaii Revised Statutes.

Under present law the Office of Consumer Protection must allege a violation of Section 480-2, Hawaii Revised Statutes, which prohibits unfair and deceptive business practices, and utilize the injunctive power of Section 480-15, in order to enjoin any violation of Section 487-13(a).

Your Committee has amended this bill by qualifying the provision authorizing the Consumer Protector to bring civil proceedings to enjoin violations of Section 487-13(a).

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 177, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 177, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.
Senator O'Connor did not concur.

SCRep. 912 Consumer Protection and Commerce on H.B. No. 479

The purpose of this bill is to repeal the statutory provision of section 459-9(11), Hawaii Revised Statutes, which prohibits advertising by optometrists in the public media.

Your Committee finds that in July of 1978, the Federal Trade Commission adopted a trade regulation which preempts state and local laws and mandates the removal of prohibitions on advertising by dispensing opticians, optometrists, and ophthalmologists of their prices or availability of their services. Your Committee is therefore in accord with the intent of this bill to comply with this regulation. Your Committee further feels that allowing advertising will permit the consumer to make informed optical purchase decisions and may lower the price of optometric services and products by providing previously undisclosed price information.

Your Committee has amended this bill by deleting part of section 3A of 459-9 to further conform to the Federal Trade Commission Regulation and by substituting in its place a new provision which lists additional grounds pertaining to advertising which the board may consider in determining whether to admit a person to its examination or to issue a certificate. The provision would require that an advertisement of ophthalmic goods or services contain certain disclosures depending on the specific goods or services being advertised.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 479, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 479, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 913 Consumer Protection and Commerce on H.B. No. 1459

The purpose of this bill is to provide notification to registered and legal owners of towed vehicles and vehicles left for repair of the location of their vehicles and to prevent the accumulation and assessment of excessive storage fees by towing companies and repair businesses.

Your Committee finds from the testimony presented that towing companies and repair businesses have been able to accumulate and assess large storage fees by not notifying the vehicle owners of the location of their vehicles. Your Committee is in accord with the intent of this bill to prevent this practice by requiring notification to be made within a specified time period.

While in agreement with the intent of this bill, your Committee has amended this bill by deleting the legal owner from the notification requirements until after the twentieth day of storage. Your Committee has further amended this bill by making non-substantive technical changes and by renumbering Section 2 as 3 and adding a new Section 2 stating the effect of the underscoring in this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1459, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1459, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 914 (Majority) Consumer Protection and Commerce on H.B. No. 1581

The purpose of this bill is to allow a seller to charge at least a \$10 finance charge in a retail installment contract. The bill amends Sec. 476-33, HRS, by deleting the "less than \$100" provision.

Your Committee finds that unless allowed to charge at least \$10, the seller does not find it worthwhile to sell less expensive items on time.

Your Committee has amended the bill to correct a typographical error.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1581, as amended herein and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1581, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda and Yee.
Senator Campbell did not concur.

SCRep. 915 Consumer Protection and Commerce on H.B. No. 1588

The purpose of this bill is to extend the life of Chapter 446D, Hawaii Revised Statutes, relating to degree granting institutions and to require unaccredited degree granting institutions to disclose their unaccredited status.

Your Committee held a public hearing on the companion bill, S.B. No. 696, on February 26, 1979.

Upon reviewing the testimony presented on this measure, your Committee is in agreement with the Higher Education Committee that the extension of Chapter 446D would be in the public interest. Although there are some problems with the present regulatory and licensing system, it serves to protect the public from "diploma mills" which grant degrees for a price and offer virtually no courses of instruction.

Because unaccredited institutions are allowed to operate for extended periods of time with temporary permits under the present regulatory system, your Committee has amended Chapter 446D to add further disclosure requirements. Your Committee has amended this bill to protect the public by requiring degree granting institutions which are not fully accredited to disclose their accreditation status. The institution shall disclose whether it is provisionally accredited, or is a candidate for accreditation. The accrediting agency or association shall also be disclosed.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1588, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1588, S.D. 2.

Signed by all members of the Committee.

SCRep. 916 Consumer Protection and Commerce on H.B. No. 1674

The purpose of this bill is to strengthen safety measures in the use of drugs by adding a more stringent labelling requirement. This requirement calls for the name, strength, and quantity of the drug issued, and specific directions for use to be noted on the label, while eliminating the use of the phrase "take as directed".

Your Committee concurs with the Department of Health testimony which cites the growing elderly population, among whom there is increasing use of drugs for various disorders (heart disease, diabetes, high blood pressure, arthritis, etc.). Since many drugs are similar in size, shape and color, it is very easy to confuse them and this confusion is further compounded when simply "take as directed" is noted on the label.

Your Committee feels that this specific labelling requirement is a definitive safety measure and can facilitate the determination of the drug in cases of accidental or intentional overdose. We also recognize that incomplete labelling is a national problem and that this labelling measure can help to ensure increased drug safety among the citizens of our State.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1674 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 917 Housing and Hawaiian Homes on H.B. No. 57

The purpose of this bill is to permit the Hawaii Community Development Authority to provide housing for persons of all income groups, rather than only for those in the low income group, by amending Section 206-2 and Section 206-15, Hawaii Revised Statutes.

A drafting error was made in the original 1976 Act which defines a residential project as intended for "persons or families of low income..." Your Committee finds that by deleting all reference to persons or families of low income in Section 206E-15, consistency is maintained with the development guidance policy concerning residential development enumerated in Section 206E-23(8).

This bill also provides that rules for residential projects be provided by the Hawaii Community Development Authority, with a provision allowing the Hawaii Housing Authority to enter into cooperative agreements with the Hawaii Community Development Authority for the development of housing projects.

Your Committee has amended the bill by renumbering Section 3 to Section 4 and adding a new section stating the effect of the bracketing and underscoring in the bill.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 57, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 57, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 918 Health on S.R. No. 39

The purpose of this resolution is to encourage the Department of Health to provide services to aid and support persons to return to the mainstream of society.

Your Committee received testimony from the Developmental Disabilities Council and the Department of Health supporting the adoption of this resolution to encourage every individual in our State to achieve his maximum level of independence and dignity within society, so that he may lead a complete and normal life.

Your Committee has amended this resolution by changing "rehabilitative" to "comprehensive".

Your Committee on Health concurs with the intent and purpose of S.R. No. 39 as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 39, S.D. 1.

Signed by all members of the Committee.

SCRep. 919 Health on S.R. No. 128.

The purpose of this resolution is to request the State Planning and Advisory Council on Developmental Disabilities to report on the status of the implementation of the developmental disabilities plan and on the status of the developmentally disabled in Hawaii.

The Council was established in 1975 by the state legislature in order to serve as coordinator of services to the developmentally disabled in the state.

Testimony from the Council indicated that a status report on the implementation of the recommendations outlined in the five-year State Developmental Disabilities Plan has been completed, and will be ready for distribution before the end of the 1979 Regular Session. The information contained in the report reflects the present availability of services in the state, and the level of success in meeting the plan's recommendations, as reported by both public and private agencies.

Your Committee recognizes the value of having such a report in order that the legislature may be fully informed regarding the services to the developmentally disabled for decision-making purposes, and looks forward to receiving the report.

However, since part of this resolution request will have been fulfilled, by the end of this session, your Committee has amended the resolution to request that only a status report on the developmentally disabled in Hawaii to include a statistical account of available services and the number of people each private or public agency serves be submitted next year. The report should also include further identification of the adult population assessed by age, location and needs. The report and its findings shall be submitted to the Legislature, 10 days prior to the convening of the Regular Session of 1980. The title and resolution has been amended accordingly.

Your Committee on Health concurs with the intent and purpose of S.R. No. 128, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 128, S.D. 1.

Signed by all members of the Committee.

SCRep. 920 Ecology, Environment and Recreation on H.B. No. 417

The purpose of this bill is to exempt large plastic beverage containers from the ban which is to take effect in Hawaii on July 1, 1979.

In 1977, the Legislature passed the Litter Control Act, one provision of which prohibits the sale, manufacture, or import of plastic beverage containers. Since plastic containers are not biodegradable or returnable for refill, it was the opinion of the Legislature that they would inflict an additional burden on the already troublesome State litter and solid waste disposal effort.

Testimony was heard from the local fruit juice industry, carbonated beverage industry, food industry, and various State agencies, all of whom supported this measure.

To cite a study of the litter problem conducted by The Institute for Applied Research on the Island of Oahu, plastic beverage containers constituted less than 1% of the litter stream. This report was submitted to the Administrator of the Litter Control Program under the Governor's Advisory Committee on Litter Control.

The expansion of the local fruit juice industry will be severely affected by the ban on plastics because of the unfeasibility of exporting glass bottles. Furthermore, small portion-serving size and larger size containers either are a negligible part of the litter problem or are not a litter problem.

Your Committee recommends that the entire ban on plastic beverage containers be repealed and the bill has been amended accordingly.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 417, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 417, H.D. 2, S.D. 1, and be referred to the Committee on Consumer Protection.

Signed by all members of the Committee.

SCRep. 921 Health on S.R. No. 100

The purpose of this resolution is to request the Department of Health and the County

of Hawaii to seek funds for the construction of a sewage treatment facility in the Honokaa area. A sewage treatment facility will aid in the progress of developing much needed housing.

Your Committee received testimony from the Department of Health informing the Committee that the County of Hawaii is the prime agency responsible for construction of such a sewage treatment facility. The resolution has been amended accordingly.

In addition, the first clause has been amended to include the Honokaa Sugar Company and a clause has been deleted to avoid misunderstanding the resolution's intent.

Your Committee on Health concurs with the intent and purpose of S.R. No. 100 as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 100, S.D. 1.

Signed by all members of the Committee.

SCRep. 922 (Majority) Economic Development on H.B. No. 1215

The purpose of this bill is to amend section 46-6, Hawaii Revised Statutes, regarding current park dedication legislation.

Prior testimony by environmental groups and the Construction Industry Legislative Organization, Inc., supported the overall intent of the bill.

Because lobbying for a park dedication ordinance in the city and county of Honolulu has proven to be a long and difficult procedure, the original bill was amended to require that each county adopt park dedication ordinances. Your Committee on Ecology, Environment and Recreation disagreed with this change and amended the bill to grant the counties the flexibility to determine their individual needs.

Your Committee on Economic Development has made nonsubstantive, technical amendments to the bill.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1215, 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. 1215, H.D. 1, S.D. 2.

Signed by all members of the Committee.
Senators Carrol and George did not concur.

SCRep. 923 Housing and Hawaiian Homes on H.B. No. 748

The purpose of this bill is to amend the definition of "apartment owner" under the Horizontal Property Regimes Act to include the lessee of an apartment whose lease is registered or recorded. This bill would also require that an apartment lease be registered with the Land Court under Chapter 501, Hawaii Revised Statutes, in order that the lessee be considered the owner for purposes of the Horizontal Property Regime Act.

In testimony presented on the Senate companion bill by the Hawaii Council of Associations of Apartment Owners it was stated:

"the question of the ownership of the apartment depends on administrative action by others first, by the landowners to deliver the lease to the Board of Directors, and secondly, on the Board of Directors to retain the lease in their file. This appears to be a hazardous way of determining whether an individual, in fact, owns an apartment. It is considered that the proposed amendment will clarify this situation. In the absence of such a revision, it is theoretically possible for a landowner to insist that he is still the owner of the apartment and entitled to voting rights and other privileges of ownership."

Your Committee has amended the bill to note the effect of bracketing and underscoring.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 748 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 748, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Yim and Soares.

SCRep. 924 Housing and Hawaiian Homes on H.B. No. 1665

The purpose of this bill is to remove the existing six year time limitation on Hawaii

Housing Authority employment contracts.

Under Section 356-5(e), no individual hired under contract may be employed beyond a maximum of six years. Testimony received on the Senate companion bill from the Authority indicated that such a restriction is arbitrary as there exists no justification for limiting such employment to six years as opposed to eight or ten years. Moreover, it is detrimental to the Authority's program operations as the length of service required from contractual employees may well exceed the present six year ceiling.

Your Committee finds that HRS 356-5(e) as amended will provide that no individual contract shall be for a period longer than two years per term, and therefore are in agreement that this limitation coupled with the standard 30 day termination notice contained in all such contracts will provide more than adequate controls over contract hires.

Your Committee on Housing and Hawaiian Homes is in accord with the intent and purpose of H.B. No. 1665 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 925 Ways and Means on H.B. No. 2

The purpose of this bill is to appropriate funds for operating and capital improvements costs for the judiciary.

Cognizant of the need for fiscal responsibility and the fiscal exigencies of the State, your Committee has reduced the operating budget of the judiciary such that the total reduction is consistent with budgetary reductions being recommended by your Committee with regard to other appropriation bills.

Your Committee has amended the bill by deleting the appropriation of permanent positions for the Statistical Analysis Center. This amendment will not affect the personnel currently employed by the Statistical Analysis Center, all of which are temporary positions. Your Committee recognizes that there are many issues regarding the Statistical Analysis Center which require clarification. Among these issues are the delineation of functions of the various feeder agencies and the Center to avoid duplication of efforts, improvement of coordination and cooperation between the agencies, permanent placement of the Center, and technical problems relating to the integration of the information systems, all of which must be settled prior to committing the State to a permanent Statistical Analysis Center. In order to ensure that these areas are adequately addressed, your Committee believes that additional study should be given this matter during the interim for further action in the Regular Session of 1980. Accordingly, all funding for the 1980-81 fiscal year for the Center has been deleted, to assure that the questions currently looming regarding the Center are answered and settled, prior to further legislative action.

Due to a revised estimate of program requirements for the judicial discipline commission, the appropriation therefor has been reduced to \$5,000 from \$15,000.

Your Committee has further amended the bill by increasing the appropriation for land acquisition for the State Judiciary Complex. The additional funds will enable the State to acquire the entire block on which the complex will be constructed, which will result in the location of the complex to be adjacent to state lands, which can at some future time be the site of other necessary related judiciary or other public facilities, such as, for example, the Honolulu District Court. Your Committee feels that acquisition of such lands now will enhance the development of state judiciary facilities and will allow flexibility for the development of future needs. Funds for projects relating to the Honolulu District Court, and for district courts in South Kohala and Lahaina have been deleted by your Committee.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2, 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. 2, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 926 Ways and Means on H.B. No. 48

The purpose of this bill is to extend the State Comprehensive Employment and Training and State Loans for Certain Employment components of the State Program for the Unemployed for another year. \$3 million is to be appropriated for the SCET program, and \$200,000 for the assistance and loan programs.

Your Committee has amended this bill to provide that each loan bears interest at no less than 2 per cent below the current average prime interest rate. Your Committee believes that the interest rate tied to a formula rather than a fixed rate is better able to adjust to the fluctuating cost of credit. Your Committee has further amended this bill by making nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 48, 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. 48, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 927 Ways and Means on H.B. No. 98

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978.

Your Committee is cognizant of the substantial expertise acquired by members of the Judicial Council in the course of their years of review of matters of judicial service. We agree with the Judiciary Committee's recommendation that the Judicial Salary Commission should consult the Judicial Council as one source, and a very important one, to facilitate its function.

Your Committee finds, however, that the judicial salary commission is unnecessary since the constitution still requires judicial salaries to be set by the legislature, and the commission's function is solely advisory. Creation of the judicial salary commission would only create more red tape and another layer of bureaucracy. Your Committee finds that the legislature can set judicial salaries through the legislative process based on testimony at public hearings, and a commission would only duplicate this process. Your Committee is returning this bill to the house of representatives for use as a vehicle to comply with the constitution pending action by the legislature to amend the constitutional provision requiring establishment of the commission.

Your Committee amended the bill by making the judicial salary commission a three-member commission and by making nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 98, 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. 98, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senators Chong, Hara and Toyofuku.

SCRep. 928 Ways and Means on H.B. No. 99

The purpose of this bill is to enact in the Hawaii Revised Statutes certain changes to the State Constitution adopted by the electorate on November 7, 1978, as Article VI, section 5, and relating to a commission on judicial discipline.

Your Committee has amended this bill by making certain nonsubstantive, grammatical, and technical changes and by changing the name of the commission from "commission on judicial discipline and retirement" to "commission on judicial discipline" since the latter term is used in Article VI, section 5.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 99, 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. 99, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Chong, Hara and Toyofuku.

SCRep. 929 Ways and Means on H.B. No. 281

The purpose of this bill is to allow a contracting officer to negotiate with the lowest responsible bidder on a public contract, and to award the contract at the reduced price. The bill also proposes to allow such negotiations to be conducted with the second lowest responsible bidder where such negotiations failed to produce a contract within available funds. Thereafter, if the negotiations with the second lowest responsible bidder fails to produce a contract within available funds, the bill allows the publication of another call for bids.

Your Committee has amended this bill by removing any negotiations with a second lowest bidder, to provide instead that in cases in which there is only one bidder and the bid

exceeds available funds a contract officer may negotiate with such bidder to reduce the price and award the contract at the reduced price.

Your Committee has also made nonsubstantive, technical amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 281, 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. 281, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 930 Ways and Means on H.B. No. 282

The purpose of this bill is to bring the State of Hawaii into compliance with federal regulations, specifically section 524(b) of the Crime Control Act of 1973. This section required the Law Enforcement Assistance Administration (LEAA) to take steps to insure that agencies which "collected, stored, or disseminated" criminal history record information with LEAA funds would (1) obtain dispositions; (2) keep information current; (3) maintain security; (4) restrict use to legitimate purposes; and (5) allow inspection by the record subject.

This bill also provides in Section 3 to invalidate any provision which is held to be a state mandate pursuant to Article VIII, section 5, of the State Constitution which would require the State to share in the cost with the counties of any additional services required of the counties by legislative action. As this bill has been requested by the counties to prevent the loss of LEAA funding, it is the opinion of this Committee that this bill does not fall in the ambit of Article VIII, section 5, but if the opposite is found to be true, then such a provision under this bill shall be invalid.

Your Committee has amended this bill by allowing dissemination of criminal history record information for research, evaluative, or statistical purposes under section 7(3). This amendment was recommended by Mr. Donald H. Moore, director of the Hawaii Council on Crime and Delinquency, to conform to federal law.

Your Committee also deleted sections -2, -3, -4, and -11 relating to the data center since the Hawaii Criminal Justice Statistical Center's (whose functions were to be statutorily incorporated into the data center) relationship with other agencies is unclear, presents problems, and an interim study on this problem should be made. Your Committee also made various nonsubstantive, technical, grammatical amendments and has renumbered the sections due to the deletions.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 282, 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. 282, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Chong, Hara and Toyofuku.

SCRep. 931 Ways and Means on H.B. No. 722

The purpose of this bill is to expand the definition of a "qualified farmer" in section 155-1, Hawaii Revised Statutes.

Your Committee has amended this bill to define a "qualified farmer" to include "corporations incorporated in the State primarily for agricultural production purposes; actively engaged in agricultural production for a minimum of two years; and with at least seventy-five per cent of each class of stock owned by residents of the State." The Committee is concerned about corporations otherwise qualifying for loans but whose shareholders are principally nonresidents. The intent of this Committee's amendment is to insure that the agricultural loan program primarily benefits resident entrepreneurs of this State.

Your Committee has made a nonsubstantive, technical amendment to this bill, added a new section 2 indicating the effect of underscoring in the bill, and renumbered section 2 as section 3.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 722, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 722, S.D. 1.

Signed by all members of the Committee.

SCRep. 932 Ways and Means on H.B. No. 1627

The purpose of this bill as received by your Committee is to conform the salary of the director of the office on aging to those of second deputies or second assistants to department heads; to amend section 349-4, Hawaii Revised Statutes, to state more clearly the role and duty of the policy advisory board for elderly affairs, and to permit the board to determine whether or not to allow its ex officio members voting privileges at board meetings by deleting the provision that they shall be nonvoting members; to increase the number of ex officio board members from twenty-seven to twenty-nine; and to amend section 349-9, Hawaii Revised Statutes, to allow each county to establish a county office on aging and a county council on aging pursuant to the Older Americans Act of 1965, as amended.

Your Committee finds that a statewide program for the elderly could better function and provide a greater number of services if each county is granted authorization to establish a county office on aging and a county council on aging, as provided in this bill, whereby each county would be responsible for implementation of provisions in the Older Americans Act of 1965, as amended.

Your Committee finds a need for uniform policies governing the level of compensation which heads of all boards and commissions receive. Until such policies are established, your Committee has determined that salaries of heads of boards and commissions should not be increased or tied to any particular formula. Accordingly, your Committee has amended this bill to retain the present salary level of director by deleting the amendment of section 349-2.

Your Committee has also amended this bill by making nonsubstantive, technical, and grammatical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1627, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1627, S.D. 1.

Signed by all members of the Committee.

SCRep. 933 Ways and Means on H.B. No. 1668

The purpose of this bill is to clarify certain vague prohibitions and requirements contained in chapter 149A, Hawaii Revised Statutes, to initiate fees for the certification of restricted pesticide applicators, to correct legal terminology, and to provide for penalties which conform to the definition of misdemeanor in section 701-107, Hawaii Revised Statutes.

Under present law there have been unintentional violations through misunderstanding of vague provisions. Also, there are no fees for the certification of restricted pesticide applicators, and therefore no means to recover expenses incurred in administering the certification program.

Your Committee is in agreement that these clarifications and corrections are desirable, that expenses incurred in the administration of the certification program should be recovered through fees, and that the penalties should conform to the standard classification of misdemeanor.

Your Committee has amended the bill, however, to retain the maximum \$25,000 fine for criminal violations of the law by commercial violators. Your Committee recognizes the inconsistency of this penalty with general penal code penalties for misdemeanors, however, in the area of criminal violations of the law by commercial entities it is necessary to leave open the option to impose a substantial penalty to maintain the deterrent effect of the law.

In addition, your Committee has made other nonsubstantive amendments to correct typographical errors in the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1668, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1668, S.D. 1.

Signed by all members of the Committee.

SCRep. 934 Consumer Protection and Commerce on H.B. No. 1526

The purpose of this bill is to decrementally phase out the sale of beverages in metal containers with detachable openings, first at the manufacturing, importing, and wholesaling levels, and then at the retail level, after allowing sufficient time for the disposal of inventories.

Under present law the sale of beverages in metal containers with detachable openings was prohibited as of January 1, 1979. This did not allow suppliers, wholesalers, and retailers sufficient time to take delivery of purchases already in transit and then dispose of these inventories.

Your Committee is in agreement that prohibiting the sale of beverages in these containers at the manufacturing, importing, and wholesaling levels as of July 1, 1979, and at the retail level as of October 1, 1979, will allow the industry sufficient time to make the necessary adjustments.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1526, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Kuroda, Ushijima, Carroll and Yee.

SCRep. 935 Ways and Means on H.B. No. 1

The purpose of this bill is to provide appropriations for the fiscal biennium, 1979 to 1981.

In deliberating on this bill and other bills which affect state finances, your Committee was faced with a number of major policy issues, some of which are the result of the constitutional amendments approved by the voters in the 1978 general election, others which have emerged in the light of new conditions and events, and still others which are essentially old issues but which have been given inadequate attention by the State. It would be instructive, therefore, to summarize these major policy issues so that the appropriation and program decisions made in this bill can be placed in their proper perspective and so that the next and ensuing sessions of the legislature and the state administration will have some guidelines as to the policies that must be developed and the issues that must be resolved.

This Committee report is in two parts. Part I summarizes the major policy issues which affect state finances. Part II is an overview of the budget and summarizes some of the specific program and appropriation decisions which have been made.

I. Major Policy Issues

A New Approach to Appropriations

For some years now, the legislature has been concerned with the usurpation of its legislative powers, particularly its traditional, constitutional power of the purse. This usurpation of power has commonly taken the form of wholesale executive restrictions of legislative appropriations. Almost as a matter of course, the administration allots funds for those appropriations which are requested through the executive budget but withholds funds for those appropriations which are made through legislative initiative. As a result, one of the basic tenets of representative government has been undermined: that it is the responsibility of the legislative branch to enact laws and make appropriations, and it is the responsibility of the governor and his agents to faithfully execute them.

For its part, the executive claims that the growing conflict over appropriations has come about only because the legislature has made appropriations which exceed the projected revenues of the State. But this is by no means clear since the executive can, throughout the budget executive period, adjust its revenue estimates to suit whatever funding actions it wishes to justify.

A 1978 constitutional amendment, which calls for the establishment of a council on revenues, provides a partial solution to the problem of executive-legislative conflict over appropriations. Henceforth, it will be the function of the council on revenues to make revenue estimates and to report them to the governor and the legislature. It is constitutional intent that the council is to support at least three major actions by the governor and the legislature: (1) budget preparation by the governor; (2) appropriations by the legislature; and (3) budget execution by the governor. It is also intended that the council will update its revenue estimates whenever necessary.

It was the contention of the 1978 Constitutional Convention, and your Committee concurs, that revenue estimating is a function which should not be influenced by the politics of either the executive or legislative branches. Thus, the establishment of a council on revenues is intended to provide the formal means by which both the executive and legislative branches will be served and advised impartially. It is your Committee's intent that the council on revenues be established with due speed so that it can make its first revenue estimates in time to guide the executive branch in developing its expenditure plans and

making initial allotments for the next fiscal year. It is also your Committee's intent that the council on revenues update its revenue estimates prior to each ensuing, quarterly allotment period and that the executive branch be guided by the estimates in all of its periodic allotment actions.

The general fund appropriations provided for in this bill, plus the appropriations your Committee is considering in all other bills, are within the revenue estimates which have been made by the executive. Therefore, if the council on revenues finds at the outset of the next fiscal year and prior to each quarterly allotment period that the revenues anticipated will be equal to or exceed the estimates originally made by the executive, there can be no justification for any unilateral restriction of appropriations on the part of the governor.

Because revenue estimates are just that--estimates which may or may not turn out to be completely accurate--there is, of course, always the possibility that revenues may not rise to the level originally projected. Indeed, even as the revenue performance in the current fiscal year has been much stronger than originally anticipated, there is a great deal of uncertainty surrounding the international and national economies, including the re-emerging, ominous energy crisis. Any kind of a fuel crunch which has an effect on airline economics and discretionary income spending patterns could have not just a ripple effect but result in a tidal wave engulfment of the islands' tourism economy. Thus, in making appropriations, the legislature must take into account the possibility of a revenue shortfall.

It is true that the administration and the legislature must always take a longer view in formulating the budget. Both branches need to assess how expenditures in the biennial period will affect expenditures in the future. But against the argument that restrictions should be made now because there will be a revenue shortfall three, four, or five years in the future, which the administration has sometimes used to justify restrictions, the basic fallacy is that no one as yet has invented that kind of crystal ball. Therefore, immediate spending decisions must be made against the revenue outlook for the immediate budgeting period and not against guesses about revenues beyond the budgeting period. The system that is incorporated in this bill provides safeguards against revenue shortfalls, but it does not make wild guesses about the future. Moreover, revenues shortfalls relative to appropriations levels should not be a problem in the future. Any conjectural argument for current restrictions because of possible future revenue shortfalls will be obviated by the constitutional amendment related to general fund appropriation limitations and the fact that it is inherent in the tax structure that revenues will outstrip economic growth.

In the past, the mere talk--let alone the actuality--of a revenue shortfall was signal for executive restriction of legislative programs and, consequently, for legislative priorities to fall by the wayside. Heretofore, the executive has claimed that legislative programs have not been funded because it was not possible to discern legislative priorities. For example, the director of finance, in discussing the restriction of appropriations before the 1978 Constitutional Convention's taxation and finance committee on August 9, posed the issue in this fashion:

"... We have people that sit through the committee hearings and try to understand what their priorities are, and we try to accommodate. And we're successful and not successful, but for the legislature to say we don't consider their feelings and what their priorities are, tell me what those priorities are. Give me a consensus of 76 people, and we will follow those priorities."

If executive discernment of legislative priorities has been so difficult, the legislature must proceed to restructure the general appropriations bill to clearly identify legislative priorities and to advance both executive and legislative accountability. Therefore, in perhaps the most significant development since statehood as to how the legislature has handled appropriations, your Committee has formulated special provisions and restructured appropriations to accomplish the following:

First, appropriations for operating programs have been reviewed, analyzed, and assigned into one of two categories. Part A includes those programs which have been found to be urgent and indispensable to the economic well-being, health, safety, and welfare of the State. Part B includes those programs which, while important, are less urgent.

Second, the executive is to fully fund the programs identified in Part A, i.e., the allotments to be made are to be the amounts appropriated for each program.

Third, the executive is also to fully fund the programs identified in Part B, but only if the revenues estimated for the next fiscal period and updated quarterly by the council on revenues indicate that the general fund revenues will equal or exceed the aggregate amount of general fund appropriations made.

Therefore, should there be a revenue shortfall, the amounts allotted or to be allotted can only be adjusted for those programs included in Part B, but not for those urgent programs identified in Part A. In effect and in a very large sense, the legislature is establishing a formal mechanism to declare its consensus priorities to the executive branch, and your Committee expects not less a response from the executive than that which was declared by the director of finance at the constitutional convention: "Give me a consensus... and we will follow those priorities."

Your Committee fully anticipates that the House of Representatives will wish to have an input into shaping the final appropriation priorities of the legislature. It looks forward to the participation and cooperation of the House in using legislative unity to forge fiscal responsibility, advancing the people's interests as their elected representatives perceive them, restoring the legislature to its rightful place in making expenditure decisions, writing a bold new chapter in improving executive-legislative relations, and elevating the accountability of government.

General Fund Appropriations Limitation

One of the new requirements of the 1978 State Constitution is the establishment of a general fund appropriations limitation. No specific limitation is expressed in the Constitution itself. Rather, the Constitution requires the legislature to establish the limitation. Specifically, the legislature is required to establish a general fund appropriations ceiling which will limit the rate of growth of general fund appropriations to the estimated rate of growth of the State's economy. Therefore, it is ultimately the legislature's responsibility to determine what type of measure would reflect the rate of growth of the economy.

Because the economic measure selected will have far reaching effects on budgeting and appropriation policies for years to come, the issue has received your Committee's careful review. Some have suggested that general fund appropriations be limited by the rate of growth of total state personal income. Some have suggested that gross state product be used as the economic measure. Others have suggested that the State devise its own econometric model to measure growth. From all accounts, it appears to your Committee that the growth of total state personal income, averaged over the most recent three years for which data is available, is the best measure at this time, not only because it is a reasonable measure of the State's economy but because it is available and verifiable from an independent source, the federal government.

It is your Committee's expectation that a general fund appropriations limitation will be formally enacted by law for it to apply to all phases of the very next executive budget and appropriations cycle. It should be noted that the general fund limitation applies not only to appropriations made by the legislature but to the budget and financial plan submitted by the governor. However, the constitutional amendment was ratified at a time when the legislature was not in session, and the result is that there was no means by which the executive budget submitted to this session of the legislature could have been constrained by any legislatively imposed limitation.

In the meanwhile, your Committee believes that there should be immediate compliance with the spirit of the Constitution and that some economic measure should be selected to establish a ceiling for general fund appropriations made in this session of the legislature. In the expectation that total state personal income will be the measure which will ultimately be enacted into statute, your Committee believes that particular index could well serve as the interim measure also. Therefore, averaged over the last three years for which data is available, the growth of total state personal income is calculated to be 9.4 percent for fiscal year 1979-80 and 9.0 percent for fiscal year 1980-81. These percentages will serve as the limit under which general fund appropriations in this bill, and all other bills providing for general fund appropriations, will be controlled in this session of the legislature.

Your Committee is aware that there is potentially a large loophole in the constitutional spending limitation. Because the Constitution applies the limitation only to general fund appropriations, there is the possibility that revenues could be earmarked for additional special funds and escape the limitation. However, your Committee is determined that the spending limitation not be circumvented and that, if any special funds are created in the future, they must be for a legitimate purpose and not for the purpose of undermining a policy approved by the people.

Debt Limitation

A change which has had an immediate impact on how your Committee has proceeded with capital improvement appropriation decisions is the constitutional change which was

made to the State's legal debt limit. Previously, the debt limit was based on a limitation on the amount of general obligation bonds which the legislature could authorize. It was based on a formula which limited the total amount of authorized bonds to a multiple of 3.5 times the average of the general fund revenues for the three preceding fiscal years. In terms of a dollar ceiling, this meant a legal debt limit of some \$2.3 billion when the legislature met last session.

Instead of a limitation on total authorizations, the new debt limit places a limitation on annual debt service--the amount required to pay principal and interest--for general obligation bonds. There is a specific limitation which will govern the maximum amount for debt service up to June 30, 1982. There is another, lower limitation which will govern debt service after June 30, 1982. Until June 30, 1982, debt service in the current or any future year, calculated at the time the bonds are issued, cannot exceed 20 percent of the average of general fund revenues in the three preceding fiscal years. After June 30, 1982, the debt service limitation drops to 18.5 percent and will remain at that lower level.

In addition to the new debt service limitations, there are two other major considerations which affect debt policy. One consideration is the amount of bonds which the State can issue without adverse effects on either the marketability of the bonds or on the State's credit rating. The state administration has informed your Committee that the amount of bonds which the state can issue and plans to issue is \$150 million annually, an amount which is expected to result in aggregate debt service costs which will be under the legal debt limit both before and after June 30, 1982.

The second major consideration is a constitutional requirement which is in addition to the basic limitation on the debt service of all bonds issued. While the new debt limit does not place a direct limitation on the amount of bonds which can be authorized, the legislature will be required after July 1, 1980 to include in every law authorizing the issuance of bonds a declaration of findings. The declaration must find that the debt service estimated for the bonds authorized in that law, plus the debt service estimated for all bonds which have been previously authorized but are still unissued, plus the debt service calculated for all outstanding bonds, will not cause the constitutional debt limit to be exceeded at the time of issuance.

This means, in effect, that while the legislature is not restricted in the amount of bonds which it can legally authorize in this session or in the 1980 session, it will be faced with the problem of controlling authorizations in the 1981 legislative session. The policy issue that this additional provision raises is whether the legislature should begin controlling its authorizations now so that some kind of margin is available in the 1981 legislative session to make appropriations necessary to continue the capital improvements program. Your Committee believes that fiscal responsibility and a rational and realistic capital improvements program require that controls should immediately be exercised.

With respect to the capital improvements program embodied in the executive budget for the next biennium, it is apparent that the schedule for developing the capital budget was such that agencies did not fully take into account the constraining constitutional amendments ratified by the people in November. Thus, it appears to be a budget intended to add more projects on the books without considering that implementation emphasis must be given to prior appropriations because of the imminence of constitutional lapsing. The projects requested in the executive budget cannot be presumed to rank higher in priority than prior authorizations and, in actuality, they are not in the same state of implementation readiness as are some of the older projects.

With all of the foregoing considerations, your Committee recommends that legislative policy on appropriations for capital improvements should proceed as follows: First, it should appropriate in this bill capital improvement funds for only the first year of the next biennium. This is because there is great uncertainty of the status of previous capital improvement appropriations which have not yet been expended or encumbered. Some of these appropriations will be cancelled on June 30, 1980, an action required by the Constitution for all unencumbered appropriations. Other appropriations will have been expended or encumbered. However, of this backlog of some \$1 billion in prior appropriations, the administration has provided no information as to how much will be expended and encumbered by June 30, 1980 and how much is expected to be lapsed. It is likely that some unencumbered appropriations will have to be reauthorized in the 1980 session to prevent their cancellation on June 30, 1980. All this must be taken into account in making capital improvement appropriations for the biennium, but the information is not available. The prudent course, then, is to make only those appropriations which are immediately required for fiscal year 1979-80 and to defer to the 1980 session the decision as to which new additional appropriations are required along with which prior appropriations need to be reauthorized.

Second, in making new capital improvement appropriations requiring general obligation

bond financing, the legislature should limit its aggregate appropriations to below the level requested in the executive budget.

Third, a limitation must be placed on the amount of appropriations which the administration can encumber as of June 30, 1980, in order to ensure that a margin will be available in the 1981 session for additional appropriations necessary for continuity of the capital improvements program. This is to ensure that executive agencies do not engage in imprudent, accelerated obligation of funds merely to escape the automatic constitutional lapsing on June 30, 1980. An encumbrance ceiling equal to the average year-end encumbrances for the past four years appears to be a reasonable ceiling, and your Committee has provided for such a ceiling in a special provision.

The three elements identified above have been incorporated in this bill and should provide the controls necessary to begin redeveloping the capital improvements budgeting, appropriations, and implementation process along the lines intended by the Constitution.

However, in order for the legislature to develop its debt policy beyond the policy incorporated in this bill, it needs to have information by the 1980 session which only the executive agencies can provide. Therefore, the director of finance is directed to coordinate the preparation of a report to be submitted to the 1980 session and which will include the following information: (1) As to appropriations made in prior legislative acts for which direct general obligation bonds are the source of financing and which are unencumbered or unexpended as of July 1, 1979, (a) the amount of such appropriations; (b) the amount estimated to be expended by June 30, 1980; (c) the amount estimated to be encumbered as of June 30, 1980; (d) the amount estimated to be lapsed on June 30, 1980; (e) the aggregate amount which will be requested to be reauthorized by the 1980 legislative session and a listing of individual projects and specific appropriations supporting that amount; (2) As to appropriations made by the 1979 session of the legislature for which direct general obligation bonds are the source of funding, (a) the amount estimated to be expended by June 30, 1980; (b) the amount established to be encumbered as of June 30, 1980; and (c) the amount estimated to be unencumbered and unexpended as of June 30, 1980.

With the foregoing information and together with the requests for new appropriations for fiscal year 1980-81, the legislature will be in a better position to determine the level and kinds of capital improvement decisions to be made in the 1980 legislative session and whether it can safely do so without jeopardizing authorizations which may be required in the 1981 session.

It is necessary in this session, and it will be necessary in the sessions ahead, to move cautiously in the authorization of general obligation bond financing and to conserve general obligation credit, not only because of the effect on the legal debt limit but because of the administration's \$150 million limitation on annual issuance. As a matter for future action, those enterprises which are not self-sustaining but which should be expected to be reviewed by the director of finance and the responsible agency to determine what changes in the financial structure of the enterprise will need to be made in order to qualify for revenue bond financing.

Other Constitutional Considerations

Standards for grants to private organizations. The legislature has been aware of the growing number of requests for public financial support of the programs conducted by private organizations. Many of these programs are worthwhile, but there have been no standards by which these programs can be assessed. In response to this problem which was presented to the 1978 constitutional convention by legislative leaders, the Constitution now reads: "No grant of public money or property shall be made except pursuant to standards provided by law."

The required standards have been established in a separate bill, S.B. No. 429, S.D. 2, which your Committee believes should be enacted in this session of the legislature to comply with the constitutional requirement. Additionally, as a transitional action, the general standards for the transfer of funds to private organizations have been included in a separate provision of this bill, and each appropriation intended for a private organization to carry out a program has been reviewed pursuant to those standards.

Transfer of mandated programs to the counties. The Constitution now provides that, if any new program or increase in the level of service under an existing program shall be mandated to any of the political subdivisions by the legislature, it shall provide that the State share in the cost. Your Committee believes that the appropriate course is to enact a statute to control and monitor mandated programs, and the Senate has passed and sent to the House for its action such a proposed statute.

Statewide Accounting System

The problem of a statewide accounting system is as old as statehood and, although it has been studied and restudied at least since 1963, its development has been imperceptible. Once again, a state administration has indicated that it wishes to proceed with developing a statewide accounting system and, while your Committee agrees that such a system is badly needed and long overdue, it is determined that the latest effort, for which the administration has requested close to \$1 million over the next two years, will not go by the wayside as did previous ill-fated, aborted projects.

With the establishment of state government following the Reorganization Act of 1959, it was evident that the accounting system inherited from territorial days needed a total overhaul. Duplicate records were being kept in the individual agencies as well as in the department of accounting and general services, even though the latter had been established to serve as the central accounting agency for the State. Moreover, the system was incapable of producing timely financial information necessary for the efficient management of the agencies and the State. This condition prompted the first of several consultant studies.

In 1963, the firm of Cresap, McCormick and Padget recommended the establishment of a uniform accounting system and a central accounting service which would maintain and produce the accounting reports for all departments and agencies in sufficient detail so that duplicate accounting systems at the departmental levels would be unnecessary. The central accounting agency would also interpret, analyze, and report financial status in detail for all departments of the state government.

The recommendations were soundly conceived but nothing happened. Development of a new accounting system soon got bogged down in an internecine struggle between the department of accounting and general services and the then developing statewide information system (SWIS) as to which agency had primary jurisdiction over designing the new system. A 1969 audit found the accounting system in pretty much the same state as the Cresap study had found it.

In the early 1970's, the administration commissioned another study to be done by IBM Corporation. However, this project never got much beyond the stage of surveying the accounting and financial information needs of the various agencies. In the meanwhile, it became apparent that conflict continued between the systems accounting division of DAGS and the EDP division of B&F, the successor agency to SWIS. There the matter stood until last year when still another study was commissioned, this time by the CPA firm of Peat, Marwick, Mitchell & Company.

The firm has completed a systems requirements analysis, and the system design, development, and implementation phases are to follow. Generally, it can be said that the development of the statewide accounting system is now at the comparable stage following the IBM's information needs survey in the early 1970's. The next phase, system design, is where interagency conflict previously emerged, and it is less than certain, given the experience of the previous 16 years, that whatever system is designed will be agreed to by the principal agencies involved and be accepted for implementation.

The investment that the State will be making and the urgency for the project to be carried out through fruition require that extraordinary project policy direction be provided and project management controls be exercised. Therefore, your Committee has included a special provision that, in addition to whatever technical group is assigned to work on the project, a high-level steering committee, composed of officials at the cabinet or sub-cabinet level, be appointed by the governor. The steering committee is to monitor all phases of the project through implementation, provide policy direction, and settle any disputes which might arise.

Your Committee is recommending that appropriations be included for the development of the statewide accounting system but only with the understanding that the project will be under close project direction and project controls. The steering committee is to submit a report to the 1980 session of the legislature on the status of the project, the work required to complete its remaining phases, and an updated timetable for the project.

Consultant Services

The experience with the development of the statewide accounting system illustrates still another problem: the use of consultant services by state agencies. The issue of improving the system for the contracting of consultants for architectural and engineering services has received attention in this session of the legislature. The issue of the use of consultants for special studies, systems analysis, master plans, and the like is of

a somewhat different order, but it deserves attention no less.

It has often happened that consultant studies go nowhere or that they badly miss the mark. When these situations occur, the primary responsibility rests with the government agency contracting for the study. Often, the agency itself is unclear as to what the study should be all about.

The starting point for the use of a consultant on a study should be the preparation of detailed and explicit project specifications. These specifications should include: the specific objectives of the project; the nature and scope of the project; the tasks to be performed; the specific concerns to be investigated; the facts to be gathered and the questions to be answered; the desired approach in performing the work; the practical, legal, and political limitations or constraints, if any, on the work to be undertaken; the form in which a report on the project is to be submitted; and the form and content of the proposal to be submitted in response to the specifications. Specifications for studies should also include the dates of proposal submission, contract award, project commencement and termination; procedures for submission of work papers and progress reports; and requirements for a preliminary draft and final report.

Proposals in response to the specifications should be solicited from as many consultants as possible. The specifications should describe what the proposal should contain, including the consultant's description of the firm's qualifications; the approach, method, and procedure the consultant intends to take and the standards which will be used; the resources the consultant intends to commit, including name and qualification, scope of work, and the amount of time to be devoted by each member of the consultant's team; the estimate of the time to be required to complete the work; and the cost of the work by appropriate cost elements (e.g., salaries, rental of equipment, travel, printing).

Proposals received by the agency should be evaluated against specific criteria derived from such general standards as the following: the degree to which each proposal complies with the specifications; the qualification and competency of each prospective consultant as shown by its organization, its staff capabilities, its past experience, and its reputation; the competencies that each prospective consultant intends to commit to the work; the approach, methods, and procedures that each prospective consultant intends to follow; the depth to which each prospective consultant proposes to conduct the various phases of the study; the time within which the study will be completed; and the costs and anticipated benefits of each proposal. From the foregoing general standards, more specific criteria should be developed for each proposed study, and various elements of the proposal should be measured quantitatively against those criteria. The proposals should then be ranked before a final selection is made.

Consultant contracts should contain the provisions of the specifications and accepted proposal. Furthermore, the contract should contain provisions to safeguard against cost over-runs, such as specifying when periodic payments are to be made for the work performed or as costs are incurred, a ceiling as to the total amount to be paid, and the withholding of final payment until a report is submitted which is acceptable to the agency.

Finally, when consultant reports are published, executive agencies should ensure that the cost of the study be identified on the title page or on some other prominent page. This is to heighten public and legislative awareness of the cost of studies and to inject in agencies a cost consciousness concern which now appears to be lacking. Additionally, each report should include in the appendix the consultant contract for the study and all amendments to the contract.

Your Committee believes that some uniform system for the selection and use of consultants on studies, along the lines suggested here, should be developed and enforced among the agencies. Therefore, your Committee recommends to the governor that he direct that an appropriate system for consultant studies be developed and implemented. If there is no action to establish a system administratively, a system will be mandated by appropriate legislation.

The Budgeting System

It is now nearly a decade since the Executive Budget Act of 1970 was enacted and, with it, the development and installation of planning-programming-budgeting. The fact that the budget documents, which should be the most important recurring documents of the state government, have been little used in recent years by the legislature and have little impact on appropriation decisions should be of some concern to the executive branch.

There are several reasons, some of which have been pointed out previously by the legislature, why the budget documents as submitted have sunk to such a low order of importance.

First, program cost data is sometimes incorrect and often suspect. Moreover, there is no way by which legislative committees can test the reasonableness of the cost data without asking for all the supporting cost details.

Second, program effectiveness measures are often irrelevant and, when relevant, their data appears to be artificial and inflated. Thus, what was to have been one of the key elements of the budgeting system--the ability to determine whether a program was achieving its intended objectives--is rendered meaningless.

Third, the program plans from one biennial budget to the next are often virtually carbon copies. Seldom are program issues discussed in any meaningful way. Summaries of analysis, when these are provided, often do not relate to actual analysis.

Fourth, even though there have been a number of new programs and significant changes to programs proposed over the years, there has been little evidence that program analysis has been conducted.

The department of budget and finance, as the agency responsible for preparing the executive budget, has made progress in developing its computer-based budget format, but it should be aware that other improvements must be made if the budget documents are not to fall into complete disuse.

Your Committee recommends to the director of finance the following:

- (1) With respect to personnel service costs, there should be some supporting data in the program plan concerning such aspects as the titles, salary range, and number of positions in the program and their costs.
- (2) Effectiveness measures and data prepared by the agencies should be reviewed for relevance and accuracy.
- (3) Higher standards should be applied to the preparation of program plans.
- (4) The agencies should be required to do program analysis before any resources are proposed for a new program or to increase the size of an ongoing program.

Employee Retirement System

By its sheer size and importance to so many people, the State's employee retirement system, with over 50,000 active members and 13,000 retirees and with \$1 billion in investments should be periodically reviewed from a policy perspective.

A number of policy issues have emerged, which your Committee believes should be further examined by the board of trustees of the retirement system. These issues include the following:

- (1) Whether the system should be redesigned around the principle that retirement benefits from the state retirement system added to the benefits of the social security system should be not more than 100 percent of the employee's final take-home pay.
- (2) Whether the current rate of assumed earnings of the system should be raised to some higher rate.
- (3) Whether the benefits for (a) ordinary disability and (b) service connected disability are adequate, inadequate, or more than adequate, taking into account other compensation systems.
- (4) Whether state and employee contributions to the system should be reduced in view of rising and uncontrollable social security contributions.

Your Committee requests that the Board of Trustees submit a report to the 1980 session on the foregoing issues and other issues which the Board believes should be brought to the attention of the legislature. At the same time, the issues will be reviewed by a joint legislative committee during the next interim period.

Legislative Oversight of Executive Agencies

A basic function of state legislatures is to oversee the executive branch of government. The legislature has a responsibility to review and evaluate state government programs to see how they are being implemented and to assure that public resources are being conserved through efficient government operations.

Among the major ways that the Hawaii State Legislature has exercised oversight over the activities of the executive branch has been through: (1) review of executive programs and agencies through the appropriations process; (2) review of specific concerns by standing and interim committees; and (3) financial, management, and program audits by the legislative auditor.

Recent responses by agencies to the audits conducted by the auditor require some comment. It is the practice of the auditor to transmit a copy of the preliminary report of the audit to the agencies affected by the examination. It is also the practice of the auditor to invite the agencies to comment on the recommendations made and to publish the responses of the agencies in their entirety as part of the audit report. In this way, the legislature as well as the public are informed as to which recommendations are agreed to by the agencies and which are not.

Such a written record as to how the agencies view the specific recommendations greatly facilitates identifying areas of agreement and areas of dispute. However, executive agencies have been responding in a very cursory way to audit recommendations as, for example, in the school bus transportation audit where, after seven weeks of review, three agency heads submitted a one-page response without commenting on the specific recommendations.

The audit of the Hawaii Foundation for History and the Humanities is another example where an executive agency has not seriously responded to the legislature's concern for more efficiency in the management and operation of state government.

The audit, completed in March 1976, generally found that the foundation had not effectively implemented the programs over which it had statutory responsibility and that progress has been extremely slow in meeting legislative expectations in virtually all areas. In reviewing the 1976 audit's findings and recommendations and as a result of public hearings held in 1977 on this matter, the legislature found that: a depository of funds and gifts to the State had not been established; a plan for a state trust for historic preservation in cooperation with the State Foundation on Culture and Arts has not been developed; a comprehensive museum and museum activities support program has seen minimal efforts and the centralized repository and information resource center and clearinghouse has not been fully realized.

Given the non-responsiveness and inattention to these matters, your Committee has recommended dissolving the Hawaii Foundation for History and the Humanities and the transfer of its responsibilities and duties to other agencies.

In the future, agencies which are audited and have the opportunity to comment on the audit recommendations will be expected to provide specific responses on their agreements and disagreements, and where they disagree, an explanation for the disagreement. And where the agencies do not take the audit recommendations seriously, the legislature will take stronger steps to ensure that its concern for more efficient government operations is not ignored.

II. Budget Overview

The general fund appropriations provided for in this bill, as well as appropriations for which general obligation bonds are the source of financing, are under executive budget levels. Your Committee's general approach to the making of program appropriations has been to review the recommendations of the subject matter committees, to assess the accuracy of the cost estimates for the various programs, to consider alternative means of funding certain programs, and, in some cases, to hold appropriations to a lower level than that requested by the executive. In addition, where your Committee is not satisfied that program direction is clear and where uncertainties exist, funding has been provided only for the first year of the fiscal biennium with the expectation that the responsible executive agencies will provide a firmer justification for the content, design, and direction of the programs or risk their curtailment. The programs for which only one-year funding has been provided include the appropriations for intake service centers and the statistical analysis center. Another area of concern is the Hawaii-Community Development Authority's role in the redevelopment of Kakaako because of its potential impact on limited state financial resources.

Other specific decisions made by your Committee include the following:

Hawaii Visitors Bureau. While recognizing the importance of tourism to the state economy, your Committee believes that the time is overdue for a return to a 50-50 parity of public support with the private sector. Even as the travel industry economy has expanded exponentially since statehood, state appropriations have accounted for an inordinately high burden in support of the Hawaii Visitors Bureau while private subscriptions have accounted for a disproportionately lower level of support.

In 1959, the year of statehood, state appropriations amounted to \$441,628 or 49 percent of the HVB budget, while private subscriptions amounted to \$459,999 (51 percent). In the current fiscal year, \$2,167,624 is budgeted from general fund appropriations, an increase of nearly five times what it was in 1959, while private subscriptions amount to \$750,000, an increase of only 1.63 times. Tourism is no longer a fledgling industry incapable of carrying its own weight. Therefore, your Committee is providing for a more equitable burden to be shared by the public and private sectors and, for the next fiscal year, general fund appropriations will be limited to \$1.4 million of which \$1 million is to be earmarked for out-of-state advertising.

Product promotion. The State's program for product promotion is intended to assist associations of producers or distributors of Hawaiian products to introduce their products to consumers. Your Committee finds that the program has been oriented for many years to the support of established and viable industries which are less in need of support than newer industries striving for an expanded market. Therefore, your Committee expects the department of planning and economic development to redirect the program towards the support of newer industries and enterprises.

International Trade Center. The governor had requested an appropriation of some \$8.5 million for the first increment development of an international trade center within the Aloha Tower complex. Your Committee is not satisfied that proper analysis of this project has been conducted. The program objectives are unclear, and there has been a lack of consideration of alternative means of development, including development by the private sector. The entire project, which is destined to cost many times the cost of the initial increment, is fraught with uncertainties. Therefore, prudence dictates that the appropriations for this project be deferred.

University of Hawaii. It is evident to your Committee that the University of Hawaii lacks the kinds of management and operational control systems necessary for the efficient conduct of any large organization. The disparate and, in some cases, inordinately high administrative salaries identified by your Committee is symptomatic of a larger problem: that the University apparently lacks a sound personnel classification and compensation plan, and little has been done about it over the years. In order to provide the University with direction it must move to improve its management systems. Your Committee is requesting that the legislative auditor commence a management audit of the University, the first phase of which is to be an audit of personnel management and administration.

Other significant decisions made by your Committee include the following:

	Fiscal Year	
	1979-80	1980-81
Provide a new Hilo hospital.	15,000,000	
Agriculture, home loans and residential subdivisions for the Hawaiians	7,605,000	
Acquisition of park lands at Makena La Perouse, Maui, and Kaena Point, Oahu.	3,000,000	
Development of agricultural parks on Hawaii at Lalamilo, Panewa, and Ke-ahole, and on Oahu at Kahuku, Waimanalo, and Waianae.	4,100,000	

	Fiscal Year	
	1979-80	1980-81
Fully fund the Medicaid Fraud Unit.	74,904	75,644
Additional correctional personnel for Oahu Community Correctional Center	929,099	1,041,365
Alleviation of traffic congestion on Oahu by improving Puuloa Road, Liliha Street, Kalaniana'ole Highway, and Ft. Weaver Road	1,973,000	
<p>In addition to those executive priorities of the Governor for which appropriations have been provided, your Committee has determined that there are a number of legislative priorities for which appropriations should also be made. These include the following:</p>		
Tuition waivers for those summer school students who are economically disadvantaged	115,200	115,661
Additional student textbooks	145,159	179,645
Implementation of the secondary English Program in grades 9 to 10	217,407	221,860
Continuation for another year of the State Comprehensive Employment and Training Program	3,000,000	
Additional occupational and physical therapists to assist special education students through the sensory deficiency program.	350,897	337,290
Improved broadcasting equipment for KHET	187,000	
Funds for Alu Like	100,000	
Fully fund a prawn marketing program	178,800	
Emergency medical services for the counties of Kauai, Hawaii and Oahu	3,662,628	
Fully fund research, demonstration and capital improvement projects on natural energy.	5,235,520	245,825

There are a number of uncertainties that might have some impact on the budget, and these fall in the lower education program area. While your Committee believes that special education is being funded at the appropriate level, it is uncertain how the federal government might view the matter in the context of the requirements of Public Law 94-142. In addition, there is the reported deficit in the teachers salary account of the Department of Education and, more recently, discussion of an anticipated shortfall in impact aid funds from the federal government. These conditions have not yet been fully validated or clarified.

In summary, in spite of several uncertainties, your Committee believes that the budget recommended by this bill as well as the appropriations recommended in other separate bills are within the revenue resources of the State as currently estimated and are within the fiscal capacity of the State to undertake over the next fiscal biennium.

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

Signed by all members of the Committee.

SCRep. 936 Ecology, Environment and Recreation on H.B. No. 1642

The purpose of this bill is to amend Chapter 205A in order to update and refine the provisions of the State's Coastal Zone Management (CZM) Law. During testimony on the bill, your Committee heard from the Department of Planning and Economic Development, the Department of Transportation, the Marine Affairs Coordinator, the County Planning Departments of Hawaii, Kauai and Maui, the Department of Land Utilization of the City and County of Honolulu, and a number of representatives of public groups. The CZM advisory committee (the Statewide Citizens Forum) also presented testimony reflecting their careful review of the provisions in the bill.

The definitions section (Sec. 205A-3) has been amended to eliminate duplication between it and the second definitions section (Sec. 205A-22).

The lead agency section (Sec. 205A-3) has been amended to make the submission of guidelines an ongoing function. The lead agency, when it sees the need for guidelines, should present recommendations to the Legislature for possible enactment. Whether or not these guidelines are adopted would then be a legislative decision.

Your Committee has amended the "compliance" section (Sec. 205A-5) to allow the state and county agencies two years to bring their regulations into compliance with this Chapter.

The cause-of-action section (Sec. 205A-6) was amended to limit the coverage of one of the subsections to the special management area. This subsection concerns compliance with the objectives, policies and guidelines of the CZM law. Your Committee feels that the critical area of concern is the shoreline area and the land area adjoining that shoreline. The provision as amended will reflect this concern.

The definitions section of Part II (Sec. 205A-22) has been amended substantially. While some of the amendments are of a housekeeping nature, many make important changes. The definition of "Authority" has been amended to provide that a county council may delegate its power to another body if it does so by ordinance. The definition of "Development" has been amended by adding a number of exemptions to the coverage of the definition. These exemptions deal with activities which are minor, routine or with activities which are not the type that should be subject to a permit procedure (agricultural operations for example). The bill has also been amended by your Committee to exempt aquaculture and mariculture operations. The exemption which referred to the exemption lists prepared pursuant to the Environmental Impact Statement law (Chapter 343) has been deleted because it was felt to be inappropriate to incorporate by such reference the rules and regulations of another agency. The contents of the exemption lists are not subject to the approval by either the Legislature or the county SMA authorities. These lists should not be incorporated into this bill without review by these bodies. If the exemptions which are added by this bill to the present law prove to be inadequate, the Legislature can make the necessary adjustments.

The boundaries section (Sec. 205A-23) has been amended to allow the counties two more years in which to amend their SMA boundaries. The progress of the National Flood Insurance Program map preparation and the fact that the State's program was not approved by the federal government until September, 1978, make this extension necessary. Subsection (c) of the section has been deleted since the term "coastal zone management area" is defined elsewhere.

The SMA procedures section (Sec. 205A-29) has been amended to add zoning changes to the types of approvals that may precede the application for an SMA permit.

Your Committee on Ecology, Environment and Recreation is in accord with the intent and purpose of H.B. No. 1642, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1642, H.D. 1, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie and Yee.

SCRep. 937 Judiciary on H.B. No. 188

The purpose of this bill is to remedy the situation where a foreign corporation sets up a Hawaii corporation and subsequently merges with it or consolidates, in order to take

advantage of the more favorable shareholder approval voting requirements for domestic corporations merging with domestic corporations.

Under present law, a domestic corporation that merges or consolidates with a foreign corporation must obtain, as a condition to merger or consolidation, 90 per cent approval of its shareholders. This requirement has led foreign corporations to establish wholly owned domestic corporations which then merge or consolidate with the domestic corporations which their parents originally intended to merge with. In this way, only 75 per cent shareholder approval of the domestic corporation is statutorily required instead of the 90 per cent required if it were to merge directly with the foreign corporation, thereby effectively circumventing the law.

Your Committee agrees with the intent of H.B. No. 188, H.D. 1, to remedy this situation. Your Committee finds that present law creates a ludicrous situation producing prohibitive administrative difficulties in enforcement. Every single corporate merger involving a foreign corporation requires a complete investigation, under present law, to determine whether a domestic corporation is in fact 90 per cent owned by a foreign parent and if so whether the domestic corporation exists solely for the purpose of circumventing the 90 per cent requirement. The current requirement producing such an impossible and ridiculous administrative burden will be alleviated by across-the-board 75 per cent requirement for both domestic-foreign and domestic-domestic corporate mergers, eliminating the need for circumventing the law.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 188, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 188, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senators Kuroda, Takitani, Ushijima and Carroll.

SCRep. 938 Ways and Means on H.B. No. 20

The purpose of this bill is to conform the Hawaii Revised Statutes to amendments to Article VII, sections 8 and 9, of the State Constitution, as effected by the Constitutional Convention of 1978.

Your Committee has amended the bill as follows:

In determining the annual percentage change in total state personal income, a calendar year was substituted for a fiscal year in order to give state departments time to prepare their budgets.

In determining total state personal income, the use of "other reputable studies or documentations" as a source of information was deleted. Your Committee did this believing that this was too vague a standard to apply in practice.

To more clearly define the ceiling which the governor's proposed budget is not to exceed, your Committee amended the bill to provide that the proposed expenditures from the state general fund shall not be increased over the appropriations from the state general fund for its preceding fiscal year by more than the state growth.

In determining the current appropriation ceiling, your Committee has amended the bill to require that the preceding fiscal year appropriation base is to be reduced by any amount which was authorized by the legislature under the section allowing the legislature to exceed the appropriation ceiling for that preceding year. Your Committee found that this was necessary to prevent a multiplier effective of exceeding the ceiling in one year. For the same reason, your Committee has amended the bill to require the governor to do the same in determining the appropriation ceiling for his proposed budget.

Your Committee has deleted the requirement that the governor use his authority under Article III, section 16, in making a reduction affecting all items in the executive budget when appropriations exceed the ceiling provided by this Act. Your Committee believes this was unnecessary in the light of the restrictions already placed on the legislature as to when they may exceed the ceiling.

The procedure for estimating the expenditure ceiling was changed to provide for a preliminary estimate to be made by the director of finance as of July 1 and a final estimate as of November 1 of the previous year in order to provide more time for the estimates to be used.

In order to conform the Hawaii Revised Statutes to changes in the Hawaii Constitution, your Committee has added a provision for the creation of a council on revenues as required

by Article VII, section 7, of the Hawaii Constitution.

Your Committee believes that the authority to restrict moneys appropriated by the legislature should not be used when moneys to fully fund the program are available and necessary to carry out the legislative intent of the program.

In the past, the allotment authority has been subject to abuse and has threatened the legislature's traditional power over the purse. The usurpation of this power represents an erosion of the foundation of representative government. Aside from the issue of separation of powers, if appropriations are restricted, when no restrictions are necessary, it would allow an illusory surplus to develop at the expense of effective government programming. Therefore, in order to ensure the effectiveness of the constitutional restrictions on spending, your Committee has made amendments to chapter 37, Hawaii Revised Statutes, to provide that in the planning and execution of the budget due regard will be given to the revenue estimates of the council on revenues and to the legislative priorities expressed in appropriation acts. It is the belief of your Committee that only in this way will the tax dollar be used most effectively and that this is in keeping with the constitutional mandate of fiscal responsibility on the part of government.

Your Committee has amended section 103-2, Hawaii Revised Statutes, regarding the general fund, to provide for a spending limitation unless the governor publicly declares the public health, safety, or welfare is threatened as provided by law. This was done to conform the Hawaii Revised Statutes to changes in the Hawaii Constitution.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 20, H.D. 1, S.D. 1, as amended herein, and recommends it pass Third Reading in the form attached hereto as H.B. No. 20, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Abercrombie, Anderson and Yee.

SCRep. 939 Ways and Means on H.B. No. 23

The purpose of this bill is to rewrite the provisions of chapter 39, Hawaii Revised Statutes, concerning revenue bonds and the determination of exclusions from the total indebtedness of the State and certification thereof, and to repeal that part concerning anti-pollution revenue bonds in order to bring these statutory provisions into conformity with the 1978 constitutional amendments.

This bill:

(1) Provides that state revenue bonds may be authorized and issued to finance loan programs as allowed by section 12 of Article VII of the State Constitution.

(2) Defines loan program to mean "the activities and policies undertaken by any department to provide assistance to members of the general public who are residents of the State by making loans or causing loans to be made available to them for such purposes as may be authorized by law."

(3) Replaces existing statutory provisions relating to the debt limit, computation, certification of the State's indebtedness, and determination of debt not subject to the debt limit in accordance with the provisions of section 13 of Article VII of the State Constitution. Major changes in the existing statutes relating to limitation and certification of the State's debt are necessary because (A) the debt limit computation was changed from a multiple of average net general fund revenues to a percentage of average net general fund revenues; and (B) debt to be charged against the limit was changed from principal of both unissued and outstanding bonds to annual principal and interest (i.e. debt service costs) on outstanding debt.

(4) Adds a new part to chapter 39, Hawaii Revised Statutes, requiring the governor to report annually to the Legislature on special purpose revenue bonds including the purposes for which they were authorized, the persons obligated to meet the debt service payments on the bonds, and the principal amounts issued.

(5) Adds a new part to chapter 39, Hawaii Revised Statutes, stating the legislative determination that there are no state bonds issued for which the security is the properties benefited or assessments on such properties.

(6) Repeals part V of chapter 39 relating to pollution control revenue bonds since such bonds may be authorized and issued under the constitutional provisions relating to special purpose revenue bonds.

Your Committee agrees with the purpose of this bill, but has amended it to ensure that loan programs may only be established as authorized by the Legislature. Appropriate language has been inserted throughout the revenue bond provisions to make this amendment. In particular section 39-63, Hawaii Revised Statutes, has been amended to delete language which would allow the establishment of a loan program under chapter 39, any other law to the contrary notwithstanding.

Your Committee has amended section 39-58, Hawaii Revised Statutes, to clarify the language therein so that revenue bonds remain payable solely from and are secured solely by the revenues or user taxes pledged to their payment and to make the use of a pledge to secure revenue bonds issued for a loan program as an additional method of securing such bonds. As previously drafted your Committee feels that removal of the word "solely" therein would result in an undesirable loose application. A similar amendment has been made to section 39-70, Hawaii Revised Statutes, on refunding revenue bonds. Section 39-70 has also been amended to allow the use of a pledge as security for revenue bonds issued for a loan program in a manner similar to the allowance under section 39-58.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 23, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 23, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie, Anderson and Yee.

SCRep. 940 Ways and Means on H.B. No. 80

The purpose of this bill is to confer upon the executive office on aging the general responsibilities of representing the interests of residents of long-term care facilities and promoting the quality of care received by and quality of life of these residents; require long-term care facilities which receive public funds to permit access to the facilities by the executive office on aging, and prohibit retaliatory actions by the facilities or their employees upon residents who seek the advocacy assistance of the executive office on aging.

The provisions of this bill reflect the State's response to recent amendments to the federal Older Americans Act which require states to establish advocacy assistance for residents of long-term care facilities.

Your Committee has amended section 2.3 of this bill to make that provision more specific. The amended sentence now reads:

"...No facility or any of its employees shall engage in any retaliatory act against a resident seeking assistance from, or making a complaint concerning a facility or a facility's employees to, the executive office on aging under section 349- ."

Previously, it had read:

"...No facility or any of its employees shall engage in any retaliatory act against a resident seeking advocacy assistance as provided for in section 349- or making a complaint concerning a facility or a facility's employees."

Your Committee has also amended this bill by making nonsubstantive, technical amendments.

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

Signed by all members of the Committee except Senators Abercrombie, Yim, Anderson and Yee.

SCRep. 941 (Majority) Ways and Means on H.B. No. 92

The purpose of this bill is to conform the Hawaii Revised Statutes to certain changes to the Hawaii State Constitution effected by the Constitutional Convention of 1978.

Your Committee generally agrees with the findings and conclusions of your Committee on Judiciary as expressed in Standing Committee Report No. 699, but, however, has amended the bill to divide the appellate responsibilities between the Supreme Court and the Intermediate Appellate Court proposed to be established by this bill. Total transfer of substantially all of the appellate functions of the Judiciary to the new court would only succeed in shifting the bulk of the current workload of the Supreme Court to the new court, thereby failing

to alleviate the present overload, but only placing it somewhere else. Accordingly, your Committee has amended the bill to provide that the new court would hear all criminal appeals, and reviews and appeals of the department of health, social services and housing, land and natural resources, labor and industrial relations, the land use commission, the public utilities commission, and the labor and industrial relations appeal board.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 92, 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. 92, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senators Yim, Anderson and Yee.
Senator Kawasaki did not concur.

SCRep. 942 Ways and Means on H.B. No. 95

The purpose of this bill is to implement Article I, section 11, of the Constitution of the State of Hawaii, as adopted on November 7, 1978, pertaining to grand jury counsel.

This bill provides for appointment and removal of the grand jury counsel by the chief justice of the state supreme court and for the counsel's qualifications, term of office, duties, compensation, disqualification, and exemption from law restricting the employment of attorneys by departments other than the attorney general.

Your Committee has amended this bill by deleting section 4 of the bill relating to appropriations and renumbering sections 5 and 6 accordingly and by making certain nonsubstantive, technical, and grammatical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 95, 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. 95, H.D. 2, S.D. 2.

Signed by all members of the Committee except Senators Abercrombie, Yim, Anderson and Yee.

SCRep. 943 Ways and Means on H.B. No. 605

The purpose of this bill is to:

1. Provide a new means by which moneys appropriated for and payments to medical care providers from the Medicaid program shall be made; and
2. Explicitly authorize the participation of health maintenance organizations in the Medicaid program on a prepaid basis.

Among its substantive provisions, this bill provides for greater legislative participation in the Medicaid program than now exercised. It requires that rates of payment for the services of individual practitioners of medical care be selected by the legislature. In this regard, subsection (a) of the amended section 346-59, Hawaii Revised Statutes, which requires the department of social services and housing to determine the rates of payment to all providers of medical care, and subsection (b) of the same section, which requires the legislature to select the rates of payment for the services of individual practitioners, may seem to be in conflict. Your Committee, however, emphasizes the intention that the legislative rate selection authority extends only to the medical care services provided by individual practitioners. Thus, with this intention clarified, there is no conflict.

The bill also explicitly authorizes the department of social services and housing to contract with health maintenance organizations to provide medical care under Medicaid on a pre-paid basis. This provision is a statement of existing practice, which previously was exercised under broad rather than specific mandate.

Your Committee has made nonsubstantive, technical amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 605, 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. 605, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki, Abercrombie, Anderson and Yee.

SCRep. 944 (Majority) Ways and Means on H.B. No. 890

The purpose of this bill is to conform the Hawaii Revised Statutes to the new state constitutional

provisions relating to Hawaiian Affairs. This bill provides for the establishment of the Office of Hawaiian Affairs.

Your Committee has reviewed the extensive committee report of your Committee on Judiciary and agrees with its general approach to implementing the constitutional amendments relating to Hawaiian Affairs. This Committee, however, has made the following amendments to this bill:

(1) Lanai and Niihau. Constitutional provisions for the Office of Hawaiian Affairs require that the islands of Oahu, Kauai, Maui, Molokai, and Hawaii have at least one representative on the board of trustees. No provision is made for the islands of Lanai and Niihau. As drafted in S.D. 2, this bill requires that each of the islands of Hawaii, Maui, Molokai, Kauai, and Oahu have at least one resident who is elected to the board of trustees. Recognizing such a provision's failure to include the Hawaiian residents of all the major islands, S.D. 2 goes on to provide that "the votes of the island of Lanai shall be counted with the island of Maui and residency on the island of Lanai shall be similarly treated". The purpose of this language was to make Lanai residents eligible for filling the representational slot designated for the island of Maui. Notwithstanding the awkwardness of the approach, such a provision fails to provide for Hawaiian residents of Niihau, an island recognized to have a substantial population of Hawaiians and native Hawaiians.

To cure these defects, your Committee has amended this bill to provide for representation for both the islands of Lanai and Niihau by requiring that one member of the board must be a resident of Maui or Lanai and that another must be a resident of Kauai or Niihau.

(2) Board vacancies. There is an inappropriate reference to a board of trustee member's "district" where that member creates a vacancy and a replacement is sought. The intent of the reference was to require that vacancies to the board be filled by persons appointed from the same island of residence as the former board member. This Committee has amended the bill to appropriately reflect that intent.

(3) Administrator compensation. Your Committee has amended this bill to increase the salary of the Office of Hawaiian Affairs' administrator to a maximum of \$20,000 a year. This amendment is in keeping with trying to attract the best qualified individual for the administrator's position.

(4) Other positions. Your Committee has deleted the provision stating that "other positions in the office shall be given subject to the provisions of chapter 76 and 77, Hawaii Revised Statutes". Since the same section in which that provision is found states that "officers and employees may be hired without regard to chapters 76 and 77", the reference to "other positions" was felt to be contradictory and confusing, and was therefore deleted.

(5) Nominations. The nomination procedure for candidacy to the board of trustees set forth in S.D. 2 of this bill is confusing. It requires that persons wishing to run for the board of trustees obtain both 15 and 25 signatures of registered voters. Moreover, it does not require that such registered voters be Hawaiian. Your Committee therefore has modified the bill to clarify the nomination procedure by requiring that a potential candidate obtain 15 signatures of registered voters who are Hawaiian.

(6) County reimbursement. Section 9 of this bill has been amended by deleting the fixed appropriation to the counties for administering the election system of the Office of Hawaiian Affairs. Instead of providing for a fixed appropriation, a new section 10 which entitles the counties to reimbursement for all of their expenditures relating to Office of Hawaiian Affairs' elections was inserted. The intent of the amendment is to insure that the counties are fully compensated for their expenditures related to this mandated state program. The addition of this new section 10 necessitated a renumbering of the succeeding sections of the bill.

In addition to the above changes, your Committee has made other nonsubstantive, technical, grammatical, and style amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 890, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 890, H.D. 1, S.D. 3.

Signed by all members of the Committee except Senators Yim, Anderson and Yee.
Senator Kawasaki did not concur.

SCRep. 945 Ways and Means on H.B. No. 1252

The purpose of this bill is to strengthen the State's agricultural loan program. Included

are clarification of the purpose and intent of the program, addition of the farm credit banks and private lenders from whom loans must be rejected before state loans are authorized, establishment of \$10,000,000 as the aggregate ceiling for the State's contingent liability for insurance of private lenders' loans, changing of interest rates, raising of the loan limit for operating loans, and providing funds for consultative services from the agricultural loan reserve fund. As received by your Committee, this bill appropriates \$25,000 for consultative services and \$1,500,000 to the agricultural loan revolving fund of which \$750,000 will be expended for the new farmer program.

Your Committee has amended this bill by making nonsubstantive, technical amendments and by deleting the appropriation in section 10, by reducing the appropriation in section 9 to \$500,000, limiting its use to the new farmer program, and renumbering sections 11 and 12 accordingly.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1252, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1252, H.D. 2, S.D. 1.

Signed by all members of the Committee except Senators Abercrombie, Anderson and Yee.

SCRep. 946 Ways and Means on H.B. No. 1639

The purpose of this bill is to appropriate funds for adjustments authorized by chapter 89C for state officers and employees excluded from collective bargaining.

Part I provides funds to program planning, analysis, budgeting (BUF 101), to be allotted by the director of finance, for adjustments authorized by chapter 89C for state officers and employees (other than those covered in Part II of the bill) excluded from collective bargaining. Part II provides funds to the administrative director services (JUD 201), to be allotted by the administrative director of the courts, for adjustments authorized by chapter 89C to be made by the chief justice for officers and employees excluded from collective bargaining. Part III provides for payment of cost adjustments by federal, special, or other funds, depending upon the funding source of an employee's compensation.

Your Committee has amended parts I and II of this bill by providing for a nominal appropriation of \$5 from each fund for each fiscal year pending the finalization of present negotiations.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1639, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1639, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie, Yim, Anderson and Yee.

SCRep. 947 Ways and Means on H.B. No. 1671

The purpose of this Act is to conform the Hawaii Revised Statutes to the state constitutional amendments relating to campaign spending that were ratified in 1978.

Your Committee has amended this bill by providing for a tax deduction for contributions made for campaign purposes. The S.D. 1 of this bill establishes a tax credit for such campaign contributions. The purpose of the amendment is to decrease the fiscal effect of the campaign contribution tax incentive. This Committee finds that a tax credit would have a significant fiscal impact on the State because tax revenues would be substantially reduced. While your Committee accepts the idea of providing incentives for individuals to make such contributions, a tax deduction lowers the cost of such a policy in terms of tax revenues lost. Your Committee has also made nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1671, 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. 1671, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Abercrombie, Anderson and Yee.

SCRep. 948 Public Utilities on H.B. No. 1667

The purpose of this bill is to modify the definition of "motor carrier" to include certain private carriers of passengers, and to provide the Department of Transportation with

a means to enforce compliance with the motor carrier safety law and rules and regulations adopted as authorized.

Your Committee finds that the purpose of the bill can be better met by retaining the existing definition of a "motor carrier" and by adding the proposed exceptions to those listed under Section 286-207 H.R.S. The bill has been amended accordingly.

Your Committee further finds that when the motor carrier safety function was the responsibility of the Public Utilities Commission, investigators of the Department of Regulatory Agencies, with powers to issue citations or summons, were used to enforce the motor carrier safety requirements. The Department of Transportation testified that the transfer of the motor carrier safety responsibility to the Department of Transportation did not provide for similar enforcement powers. The department feels that the enactment of this bill will grant similar powers to the Department of Transportation investigators to enforce compliance with the motor carrier safety requirements.

Your Committee further amended the bill to reflect the effect of bracketing and underscoring.

Your Committee on Public Utilities is in accord with the intent and purpose of H.B. No. 1667, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1667, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 949 Ways and Means on H.B. No. 1686

The purpose of this bill is to authorize the Hawaii Housing Authority (HHA) to raise funds from private investors through the sale of tax-exempt revenue bonds, and to make these funds available at affordable interest rates through mortgage lenders to persons and families of lower and moderate income to enable them to purchase a new or existing home or to convert their residential leasehold property to fee simple. The funds will be allocated by the HHA for use in four housing programs as follows:

1. The making of loans to mortgage lenders who will in turn make loans to persons of lower and moderate income (eligible loans);
2. The purchase of existing loans or mortgages from mortgage lenders who will then make eligible loans;
3. The making of advance commitments to purchase eligible loans from mortgage lenders;
4. The funding of eligible loans to be made through mortgage lenders.

Similar programs are operating through over forty other State and municipal housing agencies across the nation. The Constitutional amendment ratified on November 7, 1978, allows Hawaii to take advantage of the favorable federal tax treatment on the investment income of such revenue bond issuances. The market for such offerings is envisioned as being primarily comprised of out-of-state investors who have previously not participated in providing mortgage funding for residential development in Hawaii. Thus, this program effectively allows us to import new investment capital for housing at below market rates. Additionally, these bond issuances will not affect the State's power to issue general obligation bonds.

Your Committee finds that a major cause of the continuing housing problem in Hawaii is the lack of long term financing at affordable interest rates which hinders the purchase of residences particularly for first-time buyers, younger families, persons and families of lower and moderate income, and the elderly.

Your Committee further finds that existing loan programs will not provide sufficient resources to meet the future demand for affordable financing of residential mortgage loans for persons and families of lower and moderate income, younger families, and the elderly.

Your Committee recognizes that one of the primary determinants of homeownership is the potential homeowner's ability to qualify for a mortgage loan based on the size of the monthly mortgage payment. Since the monthly mortgage payment is determined by the principal amount, the interest rate, and the length of the loan, it is important that these factors be addressed in offering home mortgage loans that are affordable to potential owner-occupant homeowners.

Your Committee was informed that the "average" loan made by one of Hawaii's larger mortgage lenders in 1978 was approximately \$60,000. At the present market rate and term,

the annual qualifying income would be approximately \$28,000. It has been estimated that loans made under this bill could be made at approximately two percent below the market rate. Thus, under this bill, a person or family making almost \$5,000 less per year would qualify for the same principal loan amount.

Your Committee received testimony in favor of this bill from the Hawaii Housing Authority, and the Hawaii League of Savings Associations.

In other legislative public hearings on this bill and the Senate companion measure, virtually all the trade associations representing the major private lending institutions and the construction industry strongly emphasized their support of this measure and of the importance of providing affordable mortgage financing for Hawaii's residents.

The bill has been designed to provide for the implementation of these housing loan programs through local financial institutions, rather than to require the State government to model or muddle the private sector's activities. The representatives of the private lending community are fully cognizant of the importance of their role in assisting in the implementation of these loan programs, and have expressed their interest in actively participating in the formulation of the policies and procedures governing the programs. The bill provides a council comprised of representatives of the major trade associations of the financial and real estate industry to assist in the implementation and operation of the housing loan programs.

Your Committee has made the following amendments to H.B. No. 1686, H.D. 2, S.D. 2:

1. The bill has been amended for style, clarity, and brevity in conformity with the Hawaii Legislative Drafting Manual.
2. A new definition for "housing loan programs" has been added to Sec. 356-201 to clarify that the term includes all four of the programs authorized in the bill. Many technical provisions applicable to all four loan programs had originally been set out in the bill four times--once in each of the four programs. Senate Draft 1 consolidated many of these reoccurring provisions into single sections by making reference to "housing loan programs" rather than to single programs such as the "loans to lenders program." The inclusion of the definition clarifies the applicability of these general provisions to all four of the housing loan programs authorized under this bill.

The term "eligible borrower" has been amended to require that he be a "bona fide resident of the State."

The term "eligible loan" has been amended to delete leasehold conversion loans from the applicability of the bill.

3. Sec. 356-206 has been amended to provide that the adjusted household income of an eligible borrower "not exceed one hundred twenty-five per cent of the median income for households in the State."

Additionally, an amendment has been included which requires the authority to establish an asset limitation for eligible borrowers.

4. Sec. 356-207 has been amended to provide that the interest rate on eligible loans be based on the income of an eligible borrower. This provision is similar to provisions under the Federal Housing Administration's FHA 235 program, and the Farmer's Home Administration's loan subsidy program. The intent is to provide stratified interest rates based on the eligible borrower's ability to pay.

Sec. 356-207 has also been amended to provide that the fair market value of the property securing the eligible loan not exceed one hundred twenty-five per cent of eligible loan principal amount to further ensure that the eligible borrower is not purchasing an expensive housing unit with substantial down payment.

Sec. 356-207 has also been amended to provide that all eligible loans be made in accordance with applicable Federal and State laws. This provision had been included in H.D. 2 of the bill, but was inadvertently deleted in S.D. 1 of the bill.

5. Sec. 356-211 has been amended to decrease the aggregate principal amount of the revenue bonds authorized to \$75 million. S.D. 1 of the bill authorized \$50 million; S.D. 2 authorized \$200 million; your Committee recommends \$75 million.
6. Sec. 356-211 and 356-212 have been consolidated into one section. Language in

subsection (a) of Sec. 356-212 was superfluous.

7. Old Sec. 356-213 has been renumbered as Sec. 356-212. Additionally, language from old Sec. 356-216(b) has been added to this section since it is more appropriate under this heading.
8. Sec. 356-214 has been renumbered as Sec. 356-213. Additionally, subsection (b) has been amended to clarify that the "costs of undertaking and maintaining the housing loan program for which the revenue bonds are issued" be included in the "principal amount of revenue bonds to be issued" rather than in the "interest rate or price" on the bonds. This change has been recommended by the State bond counsel.
9. Sec. 356-215 has been renumbered as Sec. 356-221.
10. Sec. 356-216 has been renumbered as Sec. 356-214. Subsection (b) has been deleted since it has been included in new Sec. 356-212(b). Subsection (c) has been deleted since Sec. 356-213(b) and Sec. 356-234 provide similar language. Subsection (d) has also been deleted since the HHA, in consultation with the State bond counsel, feels this language allowing rules to be adopted for the governance of the issuance of revenue bonds is not necessary since the bonds will be issued pursuant to Part III of Chapter 39 and the additional provisions of this bill.
11. Secs. 356-221 and 356-222 have been renumbered as Secs. 356-217 and 356-218 respectively.
12. Sec. 356-231 has been amended to require that participating lenders allocate loans to persons at different income levels.
13. Sec. 356-232 to 356-235 have been added to the bill. These sections have been assimilated from other sections of the bill without substantive change.
14. Sec. 356-241 has been amended to require that proceeds of loans made by the authority under this loans to lenders program be used by the mortgage lenders "within a time period prescribed by the authority." Although this type of provision could probably be incorporated in rules governing the program procedures, your Committee has included this language in statute on advice of the State bond counsel. Many loan to lenders programs in other states prescribe a statutory time period for fund utilization by mortgage lenders.

Subsections (c) through (l) have been deleted since these provisions have been incorporated into other sections of the bill.

15. New Secs. 356-242, and 356-281 to 356-285 have been added to the bill, with the language assimilated from other deleted material without substantive change.
16. Secs. 356-251, 356-261, and 356-271 have been amended by deleting material transferred to other sections, and by making other non-substantive changes.
17. Sec. 356-291 regarding the restrictions on transfer of the housing unit financed has been amended. Your Committee believes that the inclusion of this new restriction on the transfer of the unit will provide an economic disincentive to shortterm speculators who would otherwise take advantage of the State's credit.
18. SECTION 6. of the bill regarding the advisory council has been amended. The membership of the council has been expanded to include the Governor's Special Assistant on Housing, the Chairman of the Senate Committee on Housing and Hawaiian Homes, the Chairman of the House Committee on Housing, and the Director of the Office of Consumer Protection, or their designated representatives. Representatives of the Home Builders Association and the Hawaii Association of Realtors have been deleted from the membership. Two public members who are not affiliated with any mortgage lender, the housing construction industry, or the real estate industry have been added.

Your Committee has amended the bill to clarify the intent that this Council not be a standing committee but exist to assist in the implementation of the housing loan programs, and then be discharged.

19. A new Section has been added to the bill (SECTION 7.). This section was originally included in the House version (H.D. 2), but was inadvertently omitted in S.D. 1 of the bill. Your Committee has included this provision as a section of the bill rather than as a statutory section.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1686, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1686, H.D. 2, S.D. 3.

Signed by all members of the Committee except Senators Kawasaki, Abercrombie, Yim, Anderson, Soares and Yee.

SCRep. 950 Legislative Management

Informing the Senate that S.C.R. Nos. 73 to 75, S.R. Nos. 323 to 326 and Stand. Com. Rep. No. 819 to 949 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 951 Human Resources on S.C.R. No. 52

The purpose of this concurrent resolution is to request the State and county governments to review and revise current practices and procedures for (1) making known and accessible to public employees, information concerning their terms and conditions of employment; and (2) timely compensation of employees.

Your Committee finds that it is in the interest of the State and county governments that their work force be informed of the terms and conditions of employment set forth by State and federal laws and regulations, collective bargaining agreements, executive orders, and departmental policies, guidelines, and directives to prepare for the work environment.

Your Committee also finds that employees are entitled to receive their compensation within a reasonable period of time following their employment.

Your Committee further finds that a productive work force is essential to provide public services and is built on trust in the State and county governments as efficacious employers.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 52 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 952 Legislative Management

Informing the Senate that S.C.R. Nos. 76 and 77, S.R. Nos. 327 to 332 and Stand. Com. Rep. No. 951 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 953 Human Resources on S.C.R. No. 53

The purpose of this concurrent resolution is to request the four area agencies on aging (the four county offices on aging) to coordinate their efforts and cooperate with the Executive Office on Aging in the development of their respective Area Plans on Aging to support and facilitate the development and implementation of a statewide comprehensive network of services for the elderly.

Your Committee finds that the Comprehensive Older Americans Act Amendments of 1978 require each area agency on aging to prepare a three-year Area Plan on Aging for approval by the Executive Office on Aging, based on a determination of the extent of need for social services, nutrition services, and multi-purpose senior centers. Additionally, the 1978 Amendments to the Older Americans Act of 1965 requires that at least 50 percent of the amount allotted for social services be expended for "services associated with access to services, in-home services, and legal services".

Your Committee further finds that these 1978 Amendments require the Executive Office on Aging to develop a three-year State plan, based upon the Area Plans developed by area agencies on aging, for approval by the U.S. Commissioner on Aging.

Your Committee has made a technical amendment to this concurrent resolution without changing the substance.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 53, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 53, S.D. 1.

Signed by all members of the Committee.

SCRep. 954 Human Resources on S.C.R. No. 70

The purpose of this concurrent resolution is to request that the Hawaii congressional delegation meet with the U.S. Secretary of Labor to develop a method to increase the annual average wage rate for Hawaii under CETA's public service program.

Your Committee finds that the public service employment program has made up a major portion of the employment opportunities provided by the CETA program in Hawaii, and that the \$6,635 average annual wage limitation for public service employment established for Hawaii will, without question, severely restrict Hawaii's ability to continue its public service employment program.

Your Committee also finds that the average annual wage figure of \$6,635, which is 8 per cent lower than the national average annual wage figure of \$7,200, was established by analyzing and indexing data from Hawaii's Unemployment Insurance rolls. Since Hawaii offers a much broader range of unemployment insurance coverage than most states (especially in the lower income area), Hawaii's index figure came out lower than most states. In effect, Hawaii has been penalized for providing liberal U.I. coverage.

Your Committee further finds that officials from the State department of Labor and Industrial Relations have already met with representatives of the U.S. Department of Labor, and that the results of those meetings indicate that the federal agency is unwilling to make any significant changes in Hawaii's average annual wage rate for the CETA program. This resolution has been amended to request that Hawaii's Congressional delegation pursue relief for Hawaii through legislative means rather than through administrative means, since administrative channels have already been tested with negative results.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 70, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 70, S.D. 1.

Signed by all members of the Committee:

SCRep. 955 Human Resources on S.C.R. No. 71

The purpose of this concurrent resolution is: (1) to request the appropriate committees of the Legislature to examine studies by the Legislative Reference Bureau (LRB) relating to the integration of human services and the issues, problems, and needs concerning the social and economic well-being of older persons in Hawaii; and further, (2) to request that these legislative committees submit a report of findings and recommendations prior to the convening of the Regular Session of 1980.

Your Committee finds that the Legislative Reference Bureau's report entitled: "The Feasibility of Integrating Human Services in Hawaii: Some Issues, Problems, and Opportunities" presents significant recommendations designed to strengthen the planning, management and delivery of various human services in an efficient, effective and economic manner. Your Committee further finds that the LRB is currently preparing a study report addressing the economic needs of older persons in Hawaii in the context of existing governmental and non-public programs.

Your Committee feels that these aforementioned reports should be reviewed together because of the close interrelationship of concerns in these studies. Your Committee heard testimony from the Department of Social Services and Housing indicating the Department's support of and willingness to assist in this review.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 71 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 956 Legislative Management

Informing the Senate that S.C.R. No. 78, S.R. Nos. 333 to 342 and Stand. Com. Rep. Nos. 953 to 955 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 957 Higher Education on S.R. No. 114

The purpose of this resolution is to request that the Legislative Reference Bureau conduct a feasibility study on the need for and development of massage therapy curriculum at

the community college level in each county which has no Department of Education - accredited massage schools.

Your Committee heard testimony from representatives of the University of Hawaii Community College System, the massage therapists of Hawaii and a shiatzu representative who testified in support of this resolution.

The University of Hawaii Community College System testified that they would be pleased to conduct a needs assessment and determine if the intensity of that need justifies the allocation of resources to fulfilling it.

Your Committee has amended the tenth WHEREAS clause in the following way:

"WHEREAS, [enactment of legislation upgrading massage licensing requirements requires] the massage board intends to upgrade and diversify its test for licensing and to require attendance in Department of Education - accredited or higher education programs of massage. [leaving] If this occurred, it would leave neighbor island residents with no available means of securing the required training for licensing[;] on their respective islands; and

Your Committee has further amended the resolution by requesting that the University of Hawaii Community College System conduct this feasibility study rather than the Legislative Reference Bureau. In accordance with this amendment, your Committee has provided that certified copies of the resolution be sent to the Chancellor for Community Colleges and provosts of all community colleges rather than the Director of the Office of the Legislative Reference Bureau.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 114 as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 114, S.D. 1.

Signed by all members of the Committee.

SCRep. 958 Higher Education on S.R. No. 182

The purpose of this resolution is to commend the women's studies program of the University of Hawaii for its excellence, innovative philosophy and commitment to the people of the State of Hawaii and request that the University of Hawaii assign it a top priority and convert the program to permanent status.

Your Committee heard testimony from the University of Hawaii, the Women's Legislative Coalition and the Hawaii State Commission on the Status of Women on this resolution. Testimony presented was unanimous in support of the resolution and attested to the accomplishments of this University program.

Your Committee heard further testimony that based on an accreditation visit of the Women's Studies Program by the Western Association of Schools and Colleges it was noted in their report that "One of the reasons for the department's national recognition has been a continued sensitivity to holding high academic standards."

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 182 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 959 Agriculture on H.C.R. No. 42

The purpose of this concurrent resolution is to commend the Board of Land and Natural Resources for its efforts in seeking improvements to the Waimanalo Irrigation System and urges the Board to intensify its efforts to upgrade the capability of the irrigation system. The concurrent resolution also requests the Board to acquire fee or lease interest in the Maunawili Watershed.

The Department of Land and Natural Resources in its testimony stated that it is working together with the Department of Agriculture on the development of an agricultural park at Waimanalo and that it is recognized that improvement of the existing water system is a necessity if the State desires to maintain and preserve the land for agricultural production. The department has recently hired a consultant who, among other things, is commissioned to make a study on the availability of water from the Maunawili Watershed and to formulate a plan and cost estimate to develop irrigation water for Waimanalo.

Your Committee on Agriculture concurs with the intent and purpose of H.C.R. No. 42 and recommends that it be referred to the Committee on Economic Development.

Signed by all members of the Committee.

SCRep. 960 Agriculture on H.C.R. No. 44

The purpose of this concurrent resolution is to request Hawaii's delegation to the Congress of the United States to sponsor and support legislation which will enable Hawaii's farmers engaged in agricultural production on leasehold lands in Hawaii to qualify for loans under the "Farm Ownership Plan" of the federal Farm Home Administration.

Your Committee finds that in Hawaii and throughout the nation, the Farmers Home Administration offers a wide range of credit programs for rural people. These programs help make it possible for farm families, rural communities, families in need of better housing, and rural free enterprises to help themselves. In addition, your Committee learned that Congress has passed and President Carter has signed a new law, the Agricultural Credit Act of 1978, containing improvements in the farm, community, and business industrial credit programs available through Farmers Home Administration. Notwithstanding these facts, your Committee expressed grave concern because Hawaii farmers on leasehold lands are unable to obtain Farmers Home Administration loans under the Farm Ownership Plan, and are being discriminated against because of Hawaii's unique land tenure situation.

Testimony presented by the Hawaii Farm Bureau Federation urges that a bill be enacted in Congress directing the Agriculture Department and the Farmers Home Administration to permit farmers on leasehold lands in Hawaii to be able to obtain Farmers Home Administration loans under the Farm Ownership Plan.

Your Committee on Agriculture concurs with the intent and purpose of H.C.R. No. 44 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 961 Agriculture on S.C.R. No. 39

The purpose of this concurrent resolution is to declare that the protection of Hawaii's sugar industry is a matter of compelling State interest and to urge the people of Hawaii, including businesses, to actively support the industry.

Your Committee finds that the sugar industry is the third largest source of income in the State; that it is a major source of employment in the State; that the industry is fighting for survival; that its demise would create havoc to our economy and unemployment would rise to catastrophic levels; that commercial establishments in the State are using and selling sugar and sugar products produced by the State's sugar competitors although there is no significant difference in price; and that a declaration by the Senate Legislature that the protection of the sugar industry in Hawaii is of compelling interest is urgent and the entire State should be urged to rally around, and actively support, Hawaii's sugar industry.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 39 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 962 Agriculture on S.C.R. No. 61

The purpose of this concurrent resolution is to ask the United States Department of Agriculture to adopt grading standards for ginger root imported into the United States.

Your Committee finds that the State has grading standards for ginger exported to the Mainland while imports from other producing areas are ungraded. This situation results in the overall downgrading of the aggregate quality of ginger root on the Mainland and an unfair competitive advantage over Hawaii's exports.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 61 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 963 (Joint) Agriculture and Transportation on S.R. No. 146

The purpose of this resolution is to request the Civil Aeronautics Board to establish,

award, or waive regulations which, through excessive restrictiveness in air transportation, may deter the development of the agriculture industry in the State of Hawaii.

Logistics is very important in the development of agriculture and the problems of transportation are exceptional in Hawaii because we are composed of islands. In consonance with the general thrust of developing the agricultural industry, this phase of the industry cannot be overlooked.

Your Committees on Agriculture and Transportation concur with the intent and purpose of S.R. No. 146 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 964 Agriculture on S.R. No. 108

The purpose of this resolution is to request the State Agriculture Coordinating Committee to develop a logo to be used to identify Hawaii-produced agricultural commodities, and plan for the implementation of the logo.

Your Committee finds that the use of such a logo will not only help identify, but also help distinguish products as being from Hawaii. Consequently, this would increase consumer awareness both in export markets, and in the local market. A local product promotion program should be developed to ensure that this logo is utilized to its greatest effectiveness.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 108 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 965 Agriculture on S.R. No. 109

The purpose of this resolution is to request the Executive Branch of the State of Hawaii to continue to support the sugar industry with all practicable means to ensure its stability and continuity.

The problems of the sugar growers are well known, and support towards stabilization is urgently needed. Assistance in research, loans, and environmental quality regulations are among other needs which will be extremely valuable in effecting stability and insuring continuity of the sugar industry in Hawaii.

Your Committee has amended the resolution to correct typographical errors.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 109, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 109, S.D. 1.

Signed by all members of the Committee.

SCRep. 966 Agriculture on S.R. No. 110

The purpose of this resolution is to request Hawaii's Congressional Delegation to take whatever action that is possible at the Federal level to assist the sugar industry of Hawaii.

Hawaii's Congressional Delegation has exerted much effort and is now working most diligently and effectively to obtain passage of favorable sugar legislation in the United States Congress. However, it is the belief of this Committee that this resolution will assist, support and greatly encourage our Congressional Delegation in their efforts.

Your Committee has amended the resolution to correct a typographical error.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 110, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 110, S.D. 1.

Signed by all members of the Committee.

SCRep. 967 Agriculture on S.R. No. 144

The purpose of this resolution is to request a study to determine how federal restrictions against the export of Hawaii grown avocado and mango to the mainland can be moderated or eliminated.

Your Committee finds that the prohibition of these crops for export has resulted in a situation where these crops are not being developed to potential locally, and neither is there any uniformity of quality, nor is there a stable supply of these fruits.

Your Committee received testimony from various State agencies and departments, who concur with the intent of the resolution.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 144 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 968 Agriculture on S.R. No. 200

The purpose of this resolution is to declare that the protection of Hawaii's sugar industry is a matter of compelling State interest and to urge the people of Hawaii, including businesses, to actively support the industry.

Your Committee finds that the sugar industry is the third largest source of income in the State; that it is a major source of employment in the State; that the industry is fighting for survival; that its demise would create havoc to our economy and unemployment would rise to catastrophic levels; that commercial establishments in the State are using and selling sugar and sugar products produced by the State's sugar competitors although there is no significant difference in price; and that a declaration by the Senate Legislature that the protection of the sugar industry in Hawaii is of compelling interest is urgent and the entire State should be urged to rally around, and actively support, Hawaii's sugar industry.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 200 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 969 Agriculture on S.R. No. 201

The purpose of this resolution is to commend and encourage the effort of the two existing agricultural cooperative associations on Maui to unite to form a single cooperative.

Your Committee finds that both federal and state laws have encouraged the formation of agriculture cooperative associations; that Maui County produces more than thirty-eight percent of the vegetables and melons in the state; that the two existing cooperative associations on Maui have initiated actions to merge and consolidate into a single association; and that, if successful, the merger should result in better services and supply to all individuals and businesses in Maui County and to the rest of the state.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 201 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 970 Human Resources on H.C.R. No. 49

The purpose of this concurrent resolution is to request the Hawaii State Occupational Information Coordinating Committee (HSOICC) to broaden its representative base by the utilization of an advisory committee structure.

Your Committee finds that the major role for HSOICC is to increase the awareness of occupational information availability; to provide a forum for the interaction between schools, vocational and rehabilitation counselors, CETA Prime Sponsors, Employment Service Offices, and others interested in occupational data needs and uses; to standardize terminology and definitions across the occupational data systems of the various state and local organizations and agencies; to eliminate duplicative occupational data efforts and fill data gaps; to develop and implement a coordinated Hawaii Occupational Information System which can be readily accessible to users, including consumers, trainers, counselors and curriculum planners; and to provide training in the use of occupational data.

Your Committee further finds that HSOICC was established by Title II (Vocational Education) of the Education Amendments of 1976 (Public Law 94-482) and strengthened by the CETA Reauthorization of 1978 (Public Law 95-93). As a result of this legislation and pursuant to an agreement with the National Occupational Information Coordinating Committee (NOICC), the State of Hawaii has officially established the Hawaii State Occupational Information Coordinating Committee. An interagency agreement between the State Board for Vocational

Education; Department of Labor and Industrial Relations; Department of of Social Services and Housing-Division of Vocational Rehabilitation; and the State Manpower Services Council-Department of Labor and Industrial Relations, Office of Manpower Planning, has been agreed to with NOICC and signed as the principal agents of HSOICC.

Your Committee on Human Resources concurs with the intent and purpose of H.C.R. No. 49, H.D. 1 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 971 Human Resources on S.C.R. No. 47

The purpose of this concurrent resolution is to request that a study be conducted by the Legislative Reference Bureau on the problems and issues associated with the provision of benefits to "permanently and totally disabled" workers receiving workers' compensation benefits.

Your Committee finds that many persons who have become permanently and totally disabled due to industrial accidents, and receive weekly benefit income, find that their income benefits decline in purchasing power over the years. As a result, these individuals are not able to maintain the standard of living that their benefit levels were originally intended to provide. The Legislature, over the past several years, has considered increasing the benefit levels to those who have been classified as permanently and totally disabled for two or more years. Implementation of such a proposal however, would seriously disrupt the current financing system of workers' compensation benefits, and radically alter the nature of workers' compensation by changing it from a no-fault insurance program to a mixed insurance/welfare program, which is contrary to the basic intent of the workers' compensation program.

Your Committee further finds that alternative solutions need to be devised to meet the needs of the permanently and totally disabled without seriously disrupting the concept of workers' compensation insurance. Such a search for solutions requires that a study be conducted during the Interim Session of 1979, with a report to the Legislature prior to its 1980 Regular Session.

Your Committee also finds that there are two other areas of concern that should be included in the study: (1) the problems that "survivors" of workers who have been killed in industrial accidents have with fixed cash benefits; and (2) the issue of partial rehabilitation for the permanently and totally disabled to allow them to regain at least a minimal income earning capacity and thereby reduce their dependency on increased benefits. This concurrent resolution has been amended to include these concerns.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 47 and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.C.R. No. 47, S.D. 1.

Signed by all members of the Committee.

SCRep. 972 (Majority) Human Resources on S.C.R. No. 56

The purpose of this concurrent resolution is to request the department of labor and industrial relations to conduct a study to determine the desirability of continuing the present procedure for setting medical fees in workers' compensation cases, and to determine appropriate fees as necessary.

Your Committee finds that Section 386-21 of the workers' compensation law requires the director of labor to promulgate a medical fee schedule by regulation and to review, and if necessary, update the schedule every three years. The section also requires an annual cost of living adjustment to the medical fee schedule. As the proponent of the medical fee schedule, the department has often become embroiled in disputes over medical fees. During the promulgation of the fee schedule by the department, testimony would be received from the insurance industry noting that the proposed medical fee schedule is adequate or generous while the medical profession's testimony would indicate the opposite view. Your Committee further finds that the director of labor has previously and consistently maintained that the existence or nonexistence of a medical fee schedule is not an essential program administration element in workers' compensation under current law, and that fee determinations and its enforcement place undesirable burdens on program administration, compromising attention to matters of higher priority.

It is the intent of this Committee that the study called for by this resolution will resolve controversies currently existing over compensation for medical services provided in

workers' compensation cases.

Your Committee has made an amendment to this resolution to include self-insurers in the group called upon to cooperate with the department in this study.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 56, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.C.R. No. 56, S.D. 1.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 973 Human Resources on S.C.R. No. 59

The purpose of this concurrent resolution is to request the Office of the Legislative Auditor to perform a study of employment training, vocational-technical education, and related manpower training programs to determine their effectiveness in meeting the State's present and future employment needs of employers, workers, and trainees; and to submit a report of findings and recommendations prior to the convening of the Regular Session of 1980. This concurrent resolution also outlines the scope of the requested study and requests that all agencies of the State and the counties involved in economic development activities and employment training, vocational-technical education, and related manpower training programs cooperate with and assist the Office of the Legislative Auditor in the performance of the requested study.

Your Committee finds that the average unemployment rate of 7.8 percent in Hawaii for 1978 was higher than the national average, and the outlook for the future is clouded by projections of a national recession or other setbacks to our economy. Further, the United States Congress and the Hawaii State Legislature have established employment training, vocational-technical education, and directly allied manpower training programs to strengthen the skills of the labor force to meet the requirements of the private sector and government.

Your Committee also finds that the efforts of the private and governmental sectors in creating jobs for the people require the development of an equally extensive program to improve methods to obtain current and accurate demand and supply information on all occupational fields and to deliver such information in a timely manner to all users. Additionally, responsibility for these employment training and directly related programs is spread among the various agencies of government, making the coordination of such programs difficult and complex.

Your Committee further finds that the various programs designed to strengthen the skills of the labor force must be more effectively coordinated to assure the utilization of fiscal resources in a prudent and economical manner and to assure that such programs are planned, developed, and implemented in consonance with economic development goals and activities as may be mandated by State law or which reflect legislative intent.

Your Committee has amended this concurrent resolution to provide that the Advisory Commission on Manpower and Full Employment perform the study. Your Committee finds that the commission, due to its duties as enumerated in Chapter 202-2, is the body which is best suited to perform this study.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 59, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.C.R. No. 59, S.D. 1.

Signed by all members of the Committee.

SCRep. 974 Human Resources on S.R. No. 264

The purpose of this resolution is to request that the Senate Committee on Human Resources study various methods of levying unemployment insurance charges to employers so as to create an equitable system of charges for all parties involved in the unemployment insurance program.

Your Committee finds that under the current unemployment insurance law, each base period employer of a qualified unemployed person contributes to the unemployment benefits paid out to that person in proportion to wages paid to that person, regardless of the role played by each employer in creating the situation of unemployment. Although this system is based on the theory that unemployment results from the general conditions of the labor market more than from a given employer's separation, there is nonetheless a substantial possibility for gross inequities to be found in individual situations. Other known systems for assessment of U.I. contributions also have significant, if not similar weaknesses,

and so there is a need to search for a new method of assessment.

Your Committee on Human Resources concurs with the intent and purpose of S.R. No. 264 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 975 Ecology, Environment and Recreation on H.C.R. No. 52

The purpose of this concurrent resolution is to request Hawaii's Congressional Delegation to pursue the establishment of an Olympic training and sportsmedicine clinic in Hawaii with the United States Olympic Committee (USOC).

Your Committee finds that Public Law 95-606, the Amateur Athletic Act of 1978, appropriates \$8 million to the USOC for the development of training centers for prospective Olympic athletes. The \$8 million appropriation is to be used according to the discretion of the USOC and has not yet been allocated for training centers around the country. The establishment of an Olympic training center and sportsmedicine clinic in Hawaii appears to be highly appropriate, in view of widespread community interest in athletics, a tropical climate conducive to year-round athletic participation, and potentially significant benefits to Hawaii's visitor industry. The endorsement of this concept by Hawaii's Congressional Delegation would provide much needed support.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of H.C.R. No. 52 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 976 Legislative Management

Informing the Senate that S.C.R. Nos. 79 to 81, S.R. Nos. 343 to 350 and Stand. Com. Rep. Nos. 957 to 975 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 977 (Majority) Consumer Protection and Commerce on H.B. No. 498

The purpose of this bill is to establish the standard of care that directors of corporations will be held to in the exercise of their fiduciary duties on behalf of their corporations.

Your Committee held a public hearing on the companion bill, S.B. No. 948, on February 28, 1979.

At present, there are no statutory laws which deal directly with the standard of care a director will be held to although there is a body of common law which does define it. Your Committee finds that this bill would codify portions of existing common law and as such, will define with particularity and make readily available for inspection, said standards.

Your Committee does not intend by this bill to limit the application of common law to the actions or inaction of directors not covered by this bill. Questions of standards of care of directors covered by this bill shall be governed by the statutory laws enacted by this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 498, 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 Yee.
Senator O'Connor did not concur.

SCRep. 978 Education on S.R. No. 121

The purpose of this resolution is to request the Department of Education and the Family Court to jointly sponsor classes in the public schools on the seriousness of the crime of shoplifting.

The Department of Education concurs with the concerns expressed in the resolution, and notes that "values education" is presently integrated in the regular educational curricula. The Family Court noted its awareness and concern with the problem, and recommended that representatives of retail merchants, the police, the University of Hawaii, and other organizations assist in developing and planning these classes.

Your Committee on Education believes this idea of broader representation of persons and organizations will lead to a better series of classes on the crime of shoplifting.

Your Committee on Education concurs with the intent and purpose of S.R. No. 121 and recommends that it be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 979 Human Resources on S.C.R. No. 57

The purpose of this concurrent resolution is to request the director of personnel services to review the compensation plans covering the Secretary classes within the civil service of the State and the Judiciary in comparison with other nonprofessional public employee classes, and to recommend to the Conference of Personnel Directors and to the Public Employees Compensation Appeals Board affirmative action to correct inequities within these Secretary classes in comparison with other Secretary classes in government service within the State, adhering to the normal two steps between levels in each class.

Your Committee finds that in 1975, the department of personnel services established a five-level secretary series (I to V), with salary ranges of SR 9, 11, 12, 14, 16 respectively. At that time, the Public Employees Compensation Appeals Board (PECAL) approved a four-level series which it established by repricing Secretary I from SR-9 to SR-10, and Secretary II from SR-11 to SR-12 and maintaining a two SR differential between Secretary III, IV and V. In 1977, however, PECAL changed its basic position, and approved a five-level series for this class and created one SR differential between levels I, II and III (SR-11, SR-12, and SR-13).

Your Committee finds that virtually all other comparable classes in State and county government utilize two SR differentials between levels, while the Secretary class utilizes a one SR differential between levels I through IV. Your Committee feels that maintenance of a two SR differential between levels in the Secretary class is in keeping with the accepted standards of the overall State compensation plans. Furthermore, your Committee concurs with the 1975 findings and subsequent action of PECAL in reducing the Secretary series to four levels. Additionally, your Committee believes that consideration should be given to actions that will facilitate the entry of Clerk Stenographers into the Secretary class.

Your Committee further finds that the possible inequity in the treatment of the Secretary classes within the civil service of the State and the Judiciary is not complementary to the basic principle of "equal pay for equal work" long held for public employees within the State, thereby affecting the morale of interested employees.

Your Committee has amended this concurrent resolution to provide that the director of personnel services is requested to submit a report on the review with recommendations for timely correction of possible inequities as may be determined by the review, twenty days before the convening of the Regular Session of 1980. Your Committee has also amended this bill to correct an error in the date on which the report (pursuant to SCR 114, 1977) by the personnel director was submitted. This date has been corrected to be "1979".

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 57, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 57, H.D. 1.

Signed by all members of the Committee.

SCRep. 980 Legislative Management

Informing the Senate that S.C.R.Nos. 82 to 86, S.R. Nos. 351 to 364 and Stand. Com. Rep. Nos. 977 to 979 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 981 Health on S.R. No. 148

The purpose of this resolution is to request the Department of Health to 1) conduct a study on the feasibility of implementing a payment scale based on the ability to pay for services for the developmentally disabled; and 2) formulate recommendations together with the Department of Education to facilitate and improve the coordination of services for the developmentally disabled between the two departments.

Your Committee received testimony by the Developmental Disabilities Council and the Department of Health in favor of the adoption of this resolution. It was noted that California

has implemented a pay scale based on the ability to pay for persons who are in need of services but for various reasons are unable to qualify because their income may be above the specified maximum.

The Committee finds that the study should take California's system into consideration so that Hawaii may enable persons equal access to services provided in the State.

The Committee encourages the Department of Health to implement the second portion of this resolution to insure that all persons are able to receive the necessary services.

Your Committee on Health concurs with the intent and purpose of S.R. No. 148 and recommends its referral to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 982 Legislative Management

Informing the Senate that S.R. Nos. 365 to 369 and Stand. Com. Rep. No. 981 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator George.

SCRep. 983 (Majority) Human Resources on S.C.R. No. 68

The purpose of this concurrent resolution is to request the director of personnel services and the Conference of Personnel Directors to submit a separate compensation plan for excluded public employees in complete form and content to the State Legislature twenty days prior to the convening of the 1980 Legislative session for consideration and approval; and to provide for the director of personnel services and the Conference of Personnel Directors to report on the status and progress of their efforts to develop this separate compensation plan to the State Legislature in July 1979 and in November 1979.

Your Committee finds that, until recently, the compensation and benefits extended to excluded public employees have been subordinated to that extended to included public employees. Moreover, such compensation and benefits have been provided to excluded public employees at significantly later periods in comparison to included employees, thereby placing such excluded personnel in an adverse financial position and status in comparison to such included personnel.

Your Committee also finds that the managerial, administrative, and confidential responsibilities placed on excluded public employees places additional burdens on such employees over and above that placed on the so-called "equivalent" positions within the bargaining units, thereby suggesting the need for a separate compensation and benefits plan for such excluded employees.

Your Committee further finds that the director of personnel services and the Conference of Personnel Directors, recognizing this need for a separate compensation plan covering excluded employees, have proposed development of a separate compensation plan by June 1979.

Your Committee has amended this concurrent resolution: (1) to provide for the director of personnel services and the Conference of Personnel Directors to submit the separate compensation plan in complete form and content to the appropriate legislative committees in October 1979; (2) to reword the fifth "WHEREAS" clause to more clearly reflect the Committee's intent; (3) to delete the second and fourth "RESOLVED" clauses to avoid redundancy; and (4) to provide that certified copies of this concurrent resolution be transmitted to the appropriate legislative committees.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 68, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 68, S.D. 1.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 984 (Joint) Agriculture and Economic Development on S.R. No. 255

The purpose of this resolution is to request that the Department of Land Natural Resources improve and expand the state operated Lalamilo Irrigation System in Hawaii County.

Your Committees find that Waimea on the Island of Hawaii is a key site for agricultural

production and that this fact is evidenced by the creation of the Lalamilo Irrigation System several years ago and the subsequent Lalamilo Agricultural Park. Your Committees also find that the Waimea area could become a major center for agricultural production and that reasonably priced water for agricultural production is essential for continued development.

Your Committees on Agriculture and Economic Development concur with the intent and purpose of S.R. No. 255 and recommends its adoption.

Signed by all members of the Committees.

SCRep. 985 Agriculture on S.R. No. 290

The purpose of this resolution is to have a review made of the agricultural coordinating mechanism of the state.

Your Committee on Agriculture finds that there is near unanimity of opinion that only through a well coordinated approach can diversified agriculture become and remain viable in Hawaii.

Your Committee also finds that although a mechanism to coordinate, at least in the public sector, agricultural activities has been in existence for some time, there is evidence that the mechanism is not functioning as well as it should.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 290 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 986 Agriculture on S.R. No. 291

The purpose of this resolution is to ask the Committee on Agriculture to review problems relating to the classification of lands for agricultural purposes.

Your Committee has heard testimony on S.B. No. 36 relating to the classification and definition of the classes of agricultural lands required by the recent amendments to the State Constitution. It has become evident that there is some controversy and confusion over the proposed definitions and their applicability in the short and long term view of agriculture and economic development in the State. There was testimony to the effect that a deliberate review is necessary and that the various segments of the state's agricultural, economic, and environmental communities should be invited to participate in the review.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 291 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 987 Health on H.B. No. 1659

The purpose of this bill is to amend Chapter 340B-3(b) to allow the Department of Health to issue certificates, without unnecessary filing constraints, to operators of wastewater treatment plants in the State under a voluntary program conducted by the Hawaii Water Prevention Control Association.

Your Committee received testimony from the Department of Health that the intent of the Act would continue to be met by this bill and that this bill is a "housekeeping measure".

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1659 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. 988 Transportation on S.C.R. No. 43

The purpose of this concurrent resolution is to request the Federal Aviation Authority to grant the petition for rule-making proposed by the Air Transport Association of America and to adopt a regulation governing the promulgation of airport noise abatement plans.

Your Committee finds that the State of Hawaii depends heavily on air transportation for passenger and cargo movements from all geographic locations.

Your Committee further finds that unless there is effective and expeditious resolution of federal, state, and local responsibilities for noise abatement, Hawaii's economy and life style may be adversely affected. Your Committee believes that a national policy is the appropriate solution, since air commerce is predominantly interstate and international. If the Federal Aviation Administration takes no action, Hawaii will face a proliferation of unilateral, uncoordinated restrictions on air transportation.

Your Committee heard testimony that some jurisdictions have already proposed or even instituted airport curfews. For instance, there is a proposal to impose a curfew from 2200 to 0700 hours at Chicago's O'Hare Airport. Many of the scheduled Honolulu-Chicago departures now arrive in Chicago during O'Hare's proposed curfew. Because of Hawaii's geographical location, all arrivals and departures, except interisland flights, are over long haul routes involving long time blocks. Your Committee finds that a proliferation of curfews could have a negative impact on air transportation services to Hawaii and, in particular, on the tourist industry.

The Honolulu Airlines Committee and the Chamber of Commerce both testified that the Air Transport Association of America proposal essentially asks the Federal Aviation Administration to comply with the Federal Aviation Act of 1958, as amended, by approving only those local noise abatement rules related to air transportation, which are found to be:

1. Consistent with the highest degree of safety in air commerce and air transportation; or
2. Consistent with the efficient utilization of navigable airspace; or
3. Not unduly burdensome to interstate or foreign commerce or not unduly interfering with the national air transportation system; or
4. Not unjustly discriminatory; or
5. Consistent with the Federal Aviation Administration's statutory regulatory authority.

Your Committee has amended this Concurrent Resolution to send certified copies to the Governor of the State of Illinois and the Chairman of the Illinois Commission for Economic Development. Your Committee believes that these two members of the Illinois state government should be informed directly of the Senate's position on this issue.

Your Committee on Transportation concurs with the intent and purpose of S.C.R. No. 43, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 43, S.D. 1.

Signed by all members of the Committee.

SCRep. 989 Transportation on S.R. No. 217

The purpose of this resolution is to request the Federal Aviation Authority to grant the petition for rule-making proposed by the Air Transport Association of America and to adopt a regulation governing the promulgation of airport noise abatement plans.

Your Committee finds that the State of Hawaii depends heavily on air transportation for passenger and cargo movements from all geographic locations.

Your Committee further finds that unless there is effective and expeditious resolution of federal, state, and local responsibilities for noise abatement, Hawaii's economy and life style may be adversely affected. Your Committee believes that a national policy is the appropriate solution, since air commerce is predominantly interstate and international. If the Federal Aviation Administration takes no action, Hawaii will face a proliferation of unilateral, uncoordinated restrictions on air transportation.

Your Committee heard testimony that some jurisdictions have already proposed or even instituted airport curfews. For instance, there is a proposal to impose a curfew from 2200 to 0700 hours at Chicago's O'Hare Airport. Many of the scheduled Honolulu-Chicago departures now arrive in Chicago during O'Hare's proposed curfew. Because of Hawaii's geographic location, all arrivals and departures, except interisland flights, are over long haul routes involving long time blocks. Your Committee finds that a proliferation of curfews could have a negative impact on air transportation services to Hawaii and, in particular, on the tourist industry.

The Honolulu Airlines Committee and the Chamber of Commerce both testified that the Air Transport Association of America proposal essentially asks the Federal Aviation Administration to comply with the Federal Aviation Act of 1958, as amended, by approving only

those local noise abatement rules related to air transportation, which are found to be:

1. Consistent with the highest degree of safety in air commerce and air transportation; or
2. Consistent with the efficient utilization of navigable airspace; or
3. Not unduly burdensome to interstate or foreign commerce or not unduly interfering with the national air transportation system; or
4. Not unjustly discriminatory; or
5. Consistent with the Federal Aviation Administration's statutory regulatory authority.

Your Committee has amended this resolution to send certified copies to the Governor of the State of Illinois and the Chairman of the Illinois Commission for Economic Development. Your Committee believes that these two members of the Illinois state government should be informed directly of the position of the Hawaii Legislature on this issue.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 217, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 217, S.D. 1.

Signed by all members of the Committee.

SCRep. 990 (Majority) (Joint) Education and Housing and Hawaiian Homes on S.R. No. 30

The purpose of this resolution is to request the Department of Education to establish a strong Hawaiian education program as a part of the elementary and secondary school curriculum, and to report to the legislature on progress in this area twenty days before the 1980 session.

Your Committees find that although the Department of Education has certain Hawaiiana programs in the schools at the 4th, 7th, and 11th or 12th grades, there is not an organized, well articulated, coordinated program which builds from one unit to the next or from one level to the next. This also means there are variations in the program from district to district and from school to school. If the intent of the 1978 constitutional amendment is to insure a comprehensive Hawaiian history, language, and culture program, the Department needs to review its present program and develop a plan to implement the intent of the 1978 Constitutional Convention.

Your Committees on Education and Housing and Hawaiian Homes are also concerned that the Department fully explore the possibility of employing community experts who are knowledgeable about Hawaiian culture but who do not necessarily have formal educational training. The Department needs to review its policies and procedures with regard to hiring these persons for the Hawaiian culture program.

Your Committees on Education and Housing and Hawaiian Homes concur with the intent and purpose of S.R. No. 30 and recommend its adoption.

Signed by all members of the Committees.
Senator Kawasaki did not concur.

SCRep. 991 Legislative Management

Informing the Senate that S.C.R. Nos. 87 to 119, S.R. Nos. 370 to 447 and Stand. Com. Rep. Nos. 983 to 990 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 992 Intergovernmental Relations on S.C.R. No. 60

The purpose of this resolution is to declare the Legislature's support for a temporary federal intergovernmental commission involving the legislative and executive branches of the Federal, State and County Administrations.

Your Committee finds that there has been no systematic effort by state, county, or federal agencies to create a coordinated planning process to deal with common problems. The economic-social interaction between the military and civilian segments of Hawaii, in particular, needs to be coordinated.

Your Committee finds that Congressional Joint Resolution 169 includes the same objectives as Senate Bill No. 1808 which is before this Legislature.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.C.R. No. 60 and recommends its adoption.

Signed by all members of the Committee except Senator George.

SCRep. 993 (Majority) Education on S.C.R. No. 23

The purpose of this concurrent resolution is to request the Legislative Auditor to conduct a comprehensive examination of school athletic activities in the Department of Education.

Your Committee finds that a 1970 study by the Legislative Auditor found inequities in resource allocation, reduced percentages of student participation, little or no control over the purposes for which expenditures are made, and little evidence of a systematic program to develop an athletic program which advances educational objectives. Although the Department of Education testified that their Interscholastic Plan for the Seventies addresses basic program questions, your Committee is not satisfied that the issues of school athletic activities have been resolved in order to provide a program which contributes to educational objectives and provides maximum opportunities for student participation.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 23 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Anderson.
Senators Kawasaki and Kuroda did not concur.

SCRep. 994 Consumer Protection and Commerce on S.R. No. 72

The purpose of this resolution is to request a review of the costs relating to last illnesses and death.

Your Committee is cognizant of the extraordinary expenses incurred with last illnesses and death especially in regard to medical, funeral, burial and interment expenses. Your Committee believes that a study should be undertaken to reveal possible ways of alleviating the financial obligations thrust upon the families of deceased individuals.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 72 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 995 Consumer Protection and Commerce on S.R. No. 86

The purpose of this resolution is to identify and monitor factors contributing to the high cost of doing business.

Your Committee believes that higher business costs are inevitably passed on to the consumer and that the cost of business can be a pivotal factor in deciding whether or not to locate employment generating establishments in Hawaii.

Your Committee thus sees the need to consider possible systems for monitoring costs as well as anticipating where high costs will occur and identifying corrective measures.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 86 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 996 Consumer Protection and Commerce on S.R. No. 202

The purpose of this resolution is to seek a congressional exemption in order to prevent the drastic reduction in Hawaii's supply of capital which would result if Congress were to impose additional reserve requirements on state-chartered banks.

Your Committee finds that state-chartered banks are a major source of capital in Hawaii and believes that if Congress were to impose reserve requirements in addition to those already imposed by the State, there would be a drastic reduction in Hawaii's supply of

capital which would, in turn, cause severe hardship for the Hawaiian economy.

Furthermore, your Committee agrees with testimony presented by the Hawaii Bankers Association which requests that this resolution be amended to refer to legislation currently being considered by the 96th Congress and that certified copies of this resolution be transmitted to the respective chairmen of the United States Senate and House Banking Committees, and has therefore, amended this resolution accordingly.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 202, as amended herein and recommends its adoption in the form attached hereto as S.R. No. 202, S.D. 1.

Signed by all members of the Committee except Senators Ushijima and Yee.

SCRep. 997 Consumer Protection and Commerce on H.C.R. No. 22

The purpose of this concurrent resolution is to seek a congressional exemption in order to prevent the drastic reduction in Hawaii's supply of capital which would result if Congress were to impose additional reserve requirements on state-chartered banks.

Your Committee finds that state-startered banks are a major source of capital in Hawaii and believes that if Congress were to impose reserve requirements in addition to those already imposed by the State, there would be a drastic reduction in Hawaii's supply of capital which would, in turn, cause severe hardship for the Hawaiian economy.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of H.C.R. No. 22, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Ushijima and Yee.

SCRep. 998 Legislative Management

Informing the Senate that S.R. No. 448 and Stand. Com. Rep. Nos. 992 to 997 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 999 Economic Development on H.C.R. No. 42

The purpose of this concurrent resolution is to commend the board of land and natural resources for its efforts in seeking improvements to the Waimanalo Irrigation System and to urge the board to intensify its efforts to upgrade the capability of the irrigation system. The concurrent resolution also requests the board to acquire fee or lease interest in the Maunawili Watershed.

In previous testimony, the department of land and natural resources stated that it is working together with the department of agriculture on the development of an agricultural park at Waimanalo and that it is recognized that improvement of the existing water system is a necessity if the State desires to maintain and preserve the land for agricultural production. The department has recently hired a consultant who, among other things, is commissioned to make a study on the availability of water from the Maunawili Watershed and to formulate a plan and cost estimate to develop irrigation water for Waimanalo.

Your Committee on Economic Development concurs with the intent and purpose of H.C.R. No. 42 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1000 (Joint) Health and Public Utilities on S.R. No. 44

The purpose of this resolution is to request the Public Utilities Commission and the Department of the Attorney General to study the feasibility of including a first aid chart in telephone directories throughout the State, and any legal ramifications involving its inclusion.

Your Committees are aware that the thousands of accidents occurring in and out of the home each year oftentimes require immediate first aid treatment until proper medical attention arrives. We also recognize that the telephone directory is usually readily accessible to the public in any home, office, or telephone booth.

Accidental deaths are the leading cause of death for children and youth in the State, age 1-14 years. Your Committees recognize that readily accessible first aid information

can help to promote the health and well-being of the citizens of the State in these and other emergency situations.

Your Committees concur with testimony offered by Hawaiian Telephone Company which suggested the resolution be amended to include the company among those participating in the study, and substituting "Survival Guide" for "first aid chart" as a means of better defining and expanding the scope of the requested study. The resolution including the title, has been amended accordingly.

Your Committees on Health and Public Utilities concur with the intent and purpose of S.R. No. 44, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 44, S.D. 1.

Signed by all members of the Committees except Senators Anderson and Yee.

SCRep. 1001 Human Resources on H.C.R. No. 7

The purpose of this concurrent resolution is to request the President of the United States and the United States Congress to increase the amount of funds available to Hawaii under the Vocational Rehabilitation Act and Title XX of the Social Security Act so that the vocational/-rehabilitation services in Hawaii may receive adequate funding.

Your Committee finds that the State of Hawaii provides vocational rehabilitation services to people suffering from congenital health or injury disability so that they may obtain or return to gainful employment or attain the optimum level of personal or social functioning within the limitation of their handicapping condition.

Your Committee finds further that the major source of funds to provide this assistance is the Vocational Rehabilitation Act of 1973, as amended, and the Title XX-Social Security Act. However, these funds have been very limited, and only 10 percent of the persons needing vocational/social rehabilitation assistance can be serviced.

Your Committee on Human Resources concurs with the intent and purpose of H.C.R. No. 7, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1002 Legislative Management

Informing the Senate that S.C.R. No. 120, S.R. Nos. 449 to 454 and Stand Com. Rep. Nos. 999 to 1001 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1003 Legislative Management

Informing the Senate that S.R. Nos. 445 to 460 and Conf. Com. Rep. No. 1 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1004 Intergovernmental Relations on S.R. No. 252

The purpose of this resolution is to request the Department of Water Supply of the County of Hawaii to give the highest possible priority in its water system development program to construct a water reservoir at Waiakea-Uka.

Your Committee finds that at present there is no water storage reservoir in the area, making it necessary to pump water to the residents from the "makai" areas to the upper areas of the district.

Your Committee feels that the construction of a reservoir would yield considerable domestic, agricultural, and economic benefits.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.R. No. 252 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1005 Intergovernmental Relations on S.R. No. 287

The purpose of this resolution is to request the Senate Committee on Intergovernmental

Relations to study and review the proposed Uniform Code of Military Justice during the interim between legislative sessions and report its findings to the Senate at least twenty days prior to the convening of the 1980 legislative session.

Your Committee finds that Chapter 124, Hawaii Revised Statutes, which deals with military courts-martial is antiquated and need to be overhauled to provide for a modern code for military justice to affect the Hawaii National Guard.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.R. No. 287 and recommends it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 1006 Intergovernmental Relations on S.R. No. 321

The purpose of this resolution is to request the Senate Intergovernmental Relations Committee to study the problems created by having those laws enacted prior to statehood relating to the individual island units and the City and County of Honolulu in the statutes, and to submit recommendations for solutions to these problems to the Senate prior to the convening of the 1980 Regular Session of the Legislature.

Your Committee finds that those local laws enacted prior to statehood which have been superseded by charter provisions or by county enacted ordinances are still found in the statutes in subtitles 2 and 3 of title 6 of the Hawaii Revised Statutes and under Attorney General Opinion 62-11 such local laws cannot be amended.

Your Committee further finds that the fact that these local laws are still found in the statutes is confusing to those using the statutes and this situation should be reviewed in order to clarify the status of such local laws.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.R. No. 321 and recommends it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1007 Intergovernmental Relations on S.R. No. 322

The purpose of this resolution is to request the Senate Committee on Intergovernmental Relations to study the advantages and disadvantages of the state retaining responsibility for preparing and maintaining real property tax maps, and to determine the appropriate mechanism for so providing if the Committee's conclusion is in the affirmative.

Your Committee finds that Article VIII, Section 3, of the State Constitution provides that all powers, duties, and functions relating to the taxation of real property shall rest exclusively with the counties.

A suggestion was made that the responsibility for the preparation and maintenance of the real property tax maps be retained by the State in order that the maps be available at a centralized location in Honolulu. However, it has been pointed out that to provide, by statute, for the State to be responsible for real property tax mapping may not be valid under the provisions of Article VIII, Section 3, of the State Constitution.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.R. No. 322 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1008 Intergovernmental Relations on S.R. No. 326

The purpose of this resolution is to request the Committee on Intergovernmental Relations to study and review the effective implementation of the problem of transfer of the real property taxation functions to the counties, and report its findings to the Legislature prior to the convening of the next legislative session.

Your Committee finds that the implementation of the transfer to the counties of the functions, powers, and duties relating to the taxation of real property requires a close review of the impact with respect to existing state and county relationships involving real property taxation.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.R. No. 326 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1009 Intergovernmental Relations on H.C.R. No. 23

The purpose of this resolution is to request the members of Hawaii's Congressional delegation to support the passage of federal legislation establishing reemployment rights for federal employees who are ordered to National Guard duty by their governor.

At present the federal legislation provides reemployment rights to guardsmen and military reservists only when called to active duty in a national emergency by the President of the United States. Further federal legislation also provides job protection when guardsmen or military reservists are required to perform annual active training and monthly unit training.

The state law presently grants reemployment rights to state employees who have been ordered into active National Guard duty by the Governor; however, federal employees are not given the same reemployment rights in this situation.

Besides the fifteen days of annual training required of all guard persons, members of the guard have been ordered to State military active duty by the Governor on thirteen separate operations/missions during the past five years. They have been called on for disaster assistance, law enforcement and various other humanitarian missions. These missions required placing on State military active duty anywhere from two to one hundred fifty individuals at any given time.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of H.C.R. No. 23 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1010 Housing and Hawaiian Homes on S.R. No. 50

The purpose of this resolution is to request the Department of Hawaiian Home Lands to review its education and public information program and to report its findings and recommendations to the Senate Committee on Housing and Hawaiian Homes 60 days prior to the opening of the 1980 legislative session.

Your Committee finds that in 1975, Senate Resolution 86, S.D. 1 was adopted to implement a comprehensive program to educate those qualified for Hawaiian Home Land, of the program's goals, objectives, programs and problems of the Hawaiian Home Lands program. However, during the past years, questions have arisen as to the effectiveness of the educational program. Your Committee feels that a study, review, and report on the educational program is necessary so that your Committee can take appropriate action to insure an effective and comprehensive Hawaiian Home Lands Program.

Your Committee has amended this resolution by deleting the 60 day submission requirement to provide the Department with additional time to prepare its findings and recommendations.

Your Committee on Housing and Hawaiian Homes concurs with the intent and purpose of S.R. No. 50, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 50, S.D. 1.

Signed by all members of the Committee.

SCRep. 1011 Housing and Hawaiian Homes on Gov. Msg. No. 46

Recommending that the Senate advise and consent to the nomination of **GEORGIANA K. PADEKEN**, as Chairperson of the Hawaiian Homes Commission, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1012 Human Resources on Gov. Msg. No. 48

Recommending that the Senate advise and consent to the nomination of **JOSHUA C. AGSALUD**, as Director of the Department of Labor and Industrial Relations, for term ending December 6, 1982.

Signed by all members of the Committee.

SCRep. 1013 Human Resources on Gov. Msg. No. 50

Recommending that the Senate advise and consent to the nomination of **DONALD A. BOTELHO**,

as Director of the Department of Personnel Services, for term ending December 6, 1982.

Signed by all members of the Committee.

SCRep. 1014 Human Resources on Gov. Msg. No. 53

Recommending that the Senate advise and consent to the nomination of ANDREW I.T. CHANG, as Director of the Department of Social Services, for term ending December 6, 1982.

Signed by all members of the Committee.

SCRep. 1015 Intergovernmental Relations on S.R. No. 194

The purpose of this resolution is to recognize and commend the public education effort of the individuals and organizations involved in the presentation of the "Nuclear Arms: Conscience, Law and Survival" forum.

Your Committee finds that various groups and individuals have come together to hold a conference on the potential dangers of storing nuclear weapons near Hawaii's population centers and other issues pertaining to the nuclear arms question. Panel discussions on numerous topics, including those pertaining to nuclear armaments, the SALT II negotiations, and implications of the United Nations 1978 Special Session on disarmament were held.

Your Committee amended this resolution by making various grammatical changes of a non substantive nature.

Your Committee on Intergovernmental Relations is in accord with the intent and purpose of S.R. No. 194, S.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 1016 Consumer Protection and Commerce on Gov. Msg. No. 52

Recommending that the Senate advise and consent to the nomination of TANY S. HONG, as Director of the Department of Regulatory Agencies, for term ending December 6, 1982.

Signed by all members of the Committee.

SCRep. 1017 Legislative Management

Informing the Senate that S.C.R. No. 121, S.R. No. 461, Stand. Com. Rep. Nos. 1004 to 1016, Gov. Msg. Nos. 119 to 474 and Conf. Com. Rep. No. 2 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1018 Housing and Hawaiian Homes on S.R. No. 163

The purpose of this resolution is to request that the Department of Hawaiian Home Lands formulate additional methods for generating revenue in order to better effectuate the purposes of the HHCA.

Your Committee finds that present methods employed to generate income for the Department of Hawaiian Home Lands are insufficient to meet all the department's present fiscal needs.

In addition, your Committee finds that recent changes to Article XII of the Hawaii Constitution dealing with Hawaiian affairs mandates the legislature to make sufficient sums available for:

1. Development of home, agriculture, farm, and ranch lots;
2. Home, agriculture, aquaculture, farm, and ranch loans;
3. Rehabilitation projects, including educational, political, social, and cultural processes;
4. Administration and operating budget of the department.

It is clear that more money is needed to satisfy present and future fiscal needs of the Department of Hawaiian Home Lands. Your Committee feels that a study and report should be submitted by the Department of Hawaiian Home Lands suggesting additional methods of generating revenues and financing so that the legislature can better evaluate the problems

and take appropriate action.

Your Committee has amended this resolution by correcting a typographical error in the fifth paragraph by deleting the phrase "state care" and substituting "sugarcane".

Your Committee on Housing and Hawaiian Homes concurs with the intent and purpose of S.R. No. 163, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 163, S.D. 1.

Signed by all members of the Committee.

SCRep. 1019 Human Resources on H.B. No. 589

The purpose of this bill is to change the method of reflecting increases or decreases in the Department of Labor and Industrial Relations' Regulation XXXI, the Workers' Compensation Medical Fee Schedule.

Your Committee finds that existing law provides that these adjustments are to be tied to increases or decreases in the Consumer Price Index for the Honolulu region prepared by the Bureau of Labor Statistics of the United States Department of Labor.

Your Committee finds further that in January 1978, the Department of Labor changed the method of computing the index by adjusting it bi-monthly instead of quarterly as was previously done. This bill will bring the State's adjustments into conformance with the new federal method of computing the index.

Your Committee on Human Resources is in accord with the intent and purpose of H.B. No. 589 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1020 Human Resources on S.C.R. No. 72

The purpose of this concurrent resolution is to request the appropriate committees of the legislature to investigate problems faced by vocational rehabilitation workshops in providing workers' compensation insurance coverage.

Your Committee finds that a number of vocational rehabilitation workshops have been experiencing financial difficulties due to their provision of workers' compensation insurance to people associated with their workshops.

Your Committee finds further that there are three areas that may be the cause of these difficulties:

1. The unnecessary inclusion of clients of the workshops workers' compensation insurance coverage,
2. The role of the State as a self-insurer, and
3. The formulation of premium rates based upon benefit levels that represent 35 or more hours a week of work, when in fact, many of the people covered by the insurance work fewer than 35 hours a week, necessitating high premium rates.

Your Committee finds that the situation is serious enough to warrant investigation during the Interim Session of the Tenth Legislature.

Your Committee has amended this concurrent resolution to change the deadline for the submittal of the findings and recommendations of the legislative committees to be involved in this investigation from the adjournment of the 1979 Regular Session to the beginning of the 1980 Regular Session. Nonsubstantive, technical amendments have also been made.

Your Committee on Human Resources concurs with the intent and purpose of S.C.R. No. 72, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.C.R. No. 72, S.D. 1.

Signed by all members of the Committee.

SCRep. 1021 (Majority) Health on S.C.R. No. 54

The purpose of this concurrent resolution is to request a general audit of the "gap group"

dental care program of the Dental Health Division of the Department of Health.

The provision of dental services to the "gap group" has traditionally been a source of conflict between the Department of Health and the private dental sector. This "gap group", of an estimated 60,000 persons, generally refers to those persons who have marginal incomes and limited economic assets and who generally do not qualify for public assistance programs.

The private dental community asserts that the needs of this "gap group" can and should be handled by private dentists at less cost to the State rather than by the Department of Health. They also contend that the involvement of the Department of Health in providing direct dental care services to the "gap group" constitutes unwarranted governmental interference and an infringement upon the principles of free enterprise.

The services rendered by the Department of Health to the "gap group" were temporarily suspended in 1977 in order to implement a six-month trial referral system operated by the Hawaii Dental Association. Reports on the effectiveness of this system were conflicting from "unwieldy and cumbersome and, therefore, of little use to the needy" to the Dental Association officials claiming that the plan worked beautifully, despite the lack of supportive data.

Your Committee received testimony from the Department of Health stating that if the private sector can provide dental care expeditiously and at a reasonable cost, the Department would discontinue all direct service except to leprosy, mentally ill and mentally retarded patients under state care. If feasible, the Department, in fact, would prefer to have "gap group" services provided by the private sector.

Your Committee's intent is to have the issues and allegations relating to the state provision of dental care to the "gap group" comprehensively evaluated by an impartial entity so that a satisfactory solution can be reached which will enable all "gap group" patients to receive adequate dental care promptly and at reasonable cost.

Your Committee concurs with Department of Health testimony recommending that the scope of the audit be expanded to include the results of the current State Health Planning and Development Agency Need Assessment Study, as well as an audit of the Dental Health Division's policies and administrative procedures. The resolution has been amended accordingly.

Your Committee has also amended the resolution by adding the Hawaii Dental Association to those receiving certified copies of the resolution.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 54, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.C.R. No. 54, S.D. 1.

Signed by all members of the Committee.
Senators Saiki, Takitani and Yee did not concur.

SCRep. 1022 (Majority) Health on S.R. No. 267

The purpose of this resolution is to request a general audit of the "gap group" dental care program of the Dental Health Division of the Department of Health.

The provision of dental services to the "gap group" has traditionally been a source of conflict between the Department of Health and the private dental sector. This "gap group", of an estimated 60,000 persons, generally refers to those persons who have marginal incomes and limited economic assets and who generally do not qualify for public assistance programs.

The private dental community asserts that the needs of this "gap group" can and should be handled by private dentists at less cost to the State rather than by the Department of Health. They also contend that the involvement of the Department of Health in providing direct dental care services to the "gap group" constitutes unwarranted governmental interference and an infringement upon the principles of free enterprise.

The services rendered by the Department of Health to the "gap group" were temporarily suspended in 1977 in order to implement a six-month trial referral system operated by the Hawaii Dental Association. Reports on the effectiveness of this system were conflicting from "unwieldy and cumbersome and, therefore, of little use to the needy" to the Dental Association officials claiming that the plan worked beautifully, despite the lack of supportive data.

Your Committee received testimony from the Department of Health stating that if the private

sector can provide dental care expeditiously and at a reasonable cost, the Department would discontinue all direct service except to leprosy, mentally ill and mentally retarded patients under state care. If feasible, the Department, in fact, would prefer to have "gap group" services provided by the private sector.

Your Committee's intent is to have the issues and allegations relating to the state provision of dental care to the "gap group" comprehensively evaluated by an impartial entity so that a satisfactory solution can be reached which will enable all "gap group" patients to receive adequate dental care promptly and at reasonable cost.

Your Committee concurs with Department of Health testimony recommending that the scope of the audit be expanded to include the results of the current State Health Planning and Development Agency Need Assessment Study, as well as an audit of the Dental Health Division's policies and administrative procedures. The resolution has been amended accordingly.

Your Committee has also amended the resolution by adding the Hawaii Dental Association to those receiving certified copies of the resolution.

Your Committee on Health concurs with the intent and purpose of S.R. No. 267, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 267, S.D. 1.

Signed by all members of the Committee.
Senators Takitani, Saiki and Yee did not concur.

SCRep. 1023 Education on S.R. No. 34

The purpose of this resolution is to request the Department of Education to report on the status of its program for gifted and talented students.

Your Committee finds that the Department of Education has begun giving consideration to gifted and talented children in the public schools by giving them special educational opportunities to nurture their talents. The executive budget for the biennium 1979-1981 also reflects additional funding over the 1977-79 biennium for the gifted and talented program.

Your Committee received testimony from the Hawaii State Teachers Association and the Department of Education supporting this resolution.

Your Committee on Education concurs with the intent and purpose of S.R. No. 34 and recommends its adoption.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1024 Health on S.C.R. No. 67

The purpose of this resolution is to ask the Department of Education to involve the students on every campus in the Department's effort to curb school violence and vandalism.

Your Committee finds that the Department has already begun a program of safety and security, and that these programs stress the involvement of students in developing, implementing, and evaluating the action plans. In addition, the Department has conducted statewide workshops stressing the team approach to prevent violence, involving students, administrators, teachers, counselors, parents, and community representatives.

In testimony offered in a public hearing, your Committee found that violence is decreasing in the public schools, particularly in those schools where the Department, the Hawaii State Teachers Association, students, parents, and community organizations have joined together to implement "school pride" projects.

Your Committee finds therefore, that programs have already been started to develop broad based programs to curb school violence and vandalism. Your Committee has therefore amended the resolution to encourage the Department of Education to continue its efforts in this area.

Your Committee on Education concurs with the intent and purpose of S.R. No. 67, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 67, S.D. 1.

Signed by all members of the Committee except Senators Abercrombie and Anderson.

SCRep. 1025 Education on S.R. No. 245

The purpose of this resolution is to ask the Department of Education to develop a timetable for quality education by which the results of public education may be measured.

Your Committee recognizes that while education is one of the most important values of the people of Hawaii, the public believes that the quality of education in the public schools is poor, and the public is increasingly disturbed by the test results of both national and Hawaii-developed achievement tests. While your Committee does not entirely agree that public education is poor, your Committee is concerned that the education program, which will expend approximately \$500 million in the next biennium, has relatively meaningless measures of effectiveness with which to evaluate progress. Your Committee is also aware that although the term "quality education" is not easily translated into quantitative measures, there must be some such measures established in order that budgetary requirements may be determined, and progress toward improved educational goals can be ascertained.

Testimony from the Department of Education indicated that they are in favor of this resolution, and believe the Foundation Program for the Public Schools of Hawaii, The Framework for DOE Curriculum Improvement, and the Hawaii Educational Plan will provide most of the information requested. The Hawaii Educational Plan in particular, which will be submitted to the 1980 Session of the Legislature, will identify goals, objectives, indicators of achievement, and timeframes.

Your Committee on Education concurs with the intent and purpose of S.R. No. 245 and recommends its adoption.

Signed by all members of the Committee except Senators Abercrombie and Anderson.

SCRep. 1026 Transportation on H.C.R. No. 120

The purpose of this concurrent resolution is to request that Hawaii's Congressional Delegation, the State Department of Transportation, and each county of the State of Hawaii coordinate its efforts immediately to acquire federal funds under Section 141 of the Federal-Aid Highway Act of 1978 for the State's bicycle projects.

Your Committee finds that Section 141 of the Federal-Aid Highway Act of 1978 authorizes \$20 million in federal grants in each of the next four years to the states and counties for the expansion of the bicycle transportation programs. Although funds have been appropriated, the Federal Highway Administration has not formulated guidelines to allocate funds to the states and counties.

Your Committee recommends that the State and counties pursue the Federal Highway Administration to allocate these funds immediately. Your Committee finds that this federal grant will enable the state and counties to achieve its goals in the development of bicycle facilities, bicycle safety education and improve the law enforcement program.

Your Committee on Transportation concurs with the intent and purpose of H.C.R. No. 120 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1027 Transportation on S.R. No. 59

The purpose of this resolution is to request the Director of Transportation to review the potential impact that the airline industry deregulation will have on the current and planned airport facilities.

Your Committee heard testimony from the Department of Transportation that on October 24, 1978, President Carter signed into law S. 2493, The Airline Deregulation Act of 1978. The effect of this law is to phase out CAB regulation of the airlines by January 1, 1985. More importantly, the new law will eliminate CAB authority over domestic routes by December 31, 1981, whereby carriers will have the opportunity to serve new routes without going through the application process.

Your Committee finds that proprietary rights of airport operations are specifically protected by the new law and provide the needed controls to prevent chaotic conditions at airports.

Your Committee further finds that the FAA is examining other non-capital or relatively low-capital actions to reduce airport congestion. These actions are essentially demand-constraining, and range from those which are primarily administrative to those which are essentially economic. The specific options being considered are:

1. peak hour pricing;
2. greater use of satellite airports;
3. restricting access to airports through quota systems;
4. restricting access to airports through CAB route awards;
5. prohibition of certain types of flight activity or users;
6. selective use of discount fares to spread demand;
7. schedule allocation to reduce peaks;

Your Committee further finds that the Department of Transportation is currently examining these options should the demands of increase air transportation become unmanageable for our airport system.

Your Committee amended the resolution to state that the Director of Transportation is requested to review the potential impact of the airline industry deregulation on the adequacy of current and planned airline facilities and report his findings to the Legislature twenty days before the convening of the Regular Session of 1980.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 59, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 59, S.D. 1.

Signed by all members of the Committee.

SCRep. 1028 Transportation on S.R. No. 60

The purpose of this resolution is to review the delineation of road maintenance responsibilities and the road damage caused by recent weather conditions.

Your Committee finds that there are state and county duplications in the administration, operation, and maintenance of the highway system. As noted in the Arthur Young and Company report, the state and the counties have established similar maintenance organizations to serve the same geographical areas. Each jurisdiction maintains a number of decentralized maintenance baseyards from which the separate maintenance crews operate.

Your Committee finds that the physical intermingling of state and county roads often as segments of the same highway, is not supportive of: (1) public accountability for the operating conditions of highways; or (2) provisions of maintenance activities at the lowest possible cost.

Testimony from the Department of Transportation indicated that during the recent rainstorms, washouts occurred at Kohala and Kukuihaele on the island of Hawaii. At Kohala, the washout of a ten foot culvert on Route 270 at Halawa Gulch reduced the travelway to one lane of traffic. The estimated cost of this repair is \$211,000.

At Kukuihaele, the washout of a 48-inch culvert required the temporary detouring of traffic through plantation roads. The roadway has been restored by the Department's maintenance crew and is presently open to traffic. Work will be continued by the Department to improve the drainage condition at this site.

Your Committee amended this resolution by changing the due date of this report from prior to adjournment of the Regular Session of 1979 to 30 days prior to the opening of the Regular Session of 1980.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 60, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 60, S.D. 1.

Signed by all members of the Committee.

SCRep. 1029 Transportation on S.R. No. 63

The purpose of this resolution is to request that the Senate Committee on Transportation review the recommendations of the Arthur Young and Company report on special funding and explore alternate modes of funding of the transportation program.

The current funding structure of the transportation system provides for a separate

special fund for each of the three modes of transportation: air, water, and land. Each fund has its own dedicated revenues prescribed by law and expenditures from these funds are restricted to specific program activities in that mode. The foundation of the Transportation Special Funds rests on the principle of user charge. Users of airports, harbors, and highways are identified and expected to bear the costs associated with the use of these facilities.

Your Committee finds that the benefits of the transportation systems are widespread and universal, accruing to direct users as well as to the general public and as such both state and county funding should be a responsibility of the General Fund. Your Committee makes this recommendation to accomplish three objectives:

1. It will insure that the resources allocated to transportation are based on needs and not affected by the fluctuating availability of funds from limited resources.
2. It will provide a flexible mechanism for implementing whatever subsidies are, or may become, appropriate.
3. It provides access to a source of revenue that is more stable and less apt to reflect unstable world economic conditions and future energy crises.

Your Committee amended the resolution by amending the due date of the report from prior to adjournment of the Regular Session of 1979 to 30 days prior to the opening of the Regular Session of 1980.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 63, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 63, S.D. 1.

Signed by all members of the Committee.

SCRep. 1030 Transportation on S.R. No. 338

The purpose of this resolution is to request that the Department of Transportation submit a report to the Senate on the proposed rules and regulations governing commercial use of the harbors and on its development plans for the Honolulu waterfront areas; and that the Senate Committee on Transportation review the reports for further legislation.

The Department of Transportation presented a preliminary report on the immediate and long-term plans for Kewalo Basin, revisions to the rules and regulations governing Kewalo Basin, the Honolulu Harbor redevelopment, and plans to accommodate an expanding commercial fishing industry.

Your Committee recognizes the importance of the commercial use of the State's harbors and finds that further study and review is essential.

Accordingly, your Committee has amended this resolution to request that the Department of Transportation continue to report on this matter to the Senate Committee on Transportation during the interim.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 338, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 338, S.D. 1.

Signed by all members of the Committee.

SCRep. 1031 Housing and Hawaiian Homes on S.R. No. 98

The purpose of this resolution is to request the Department of Hawaiian Home Lands, Department of Land and Natural Resources, and other appropriate public and private agencies and entities as may be interested in the Hawaiian Homes Program to study jointly the feasibility of establishing homestead areas currently not within the jurisdiction of the Department of Hawaiian Home Lands in a manner which will minimize the necessity for individuals awarded homesteads to relocate to areas distant from their desired area of residence.

Your Committee finds that presently the total number of state applicants for residential, agricultural and ranch land are 5,929, of which 3,851 or 64.9% are from Oahu. Furthermore, of the total amount of land available for Hawaiian Homes, only 2.66% is located on Oahu. The disproportionate distribution of land has caused most beneficiaries who accept land to be abruptly and totally relocated from areas in which they have spent their entire lives.

Your Committee notes that a recent constitutional amendment authorizes the Department of Hawaiian Homes to exchange lands with both the public and private sector. It is your Committee's hope that this amendment would remedy the present disproportionate situation. However, in order to achieve these goals the cooperation and compromise of the public and private sector is necessary, to assist in the implementation of the amendment. Your Committee finds that a feasibility study and report is needed with a view as to it's application toward the minimization of the necessity for individuals awarded homesteads to relocate to areas distant from their desired area of residence.

Your Committee on Housing and Hawaiian Homes concurs with the intent and purpose of S.R. No. 98 and recommends that it be referred to the Committee on Economic Development for further consideration.

Signed by all members of the Committee.

SCRep. 1032 (Joint) Education and Higher Education on S.R. No. 27

The purpose of this resolution is to request the President and Congress to fund more fully educational programs for the handicapped.

Your Committees find that PL 94-142, the Education for All Handicapped Children Act, requires the states to provide full educational opportunity to all handicapped children between the ages of three and eighteen by September 1, 1978 and between the ages of three and twenty-one by September 1, 1980. While your Committees agree with the intent and purpose of this Act, federal funding has not been adequate to meet these requirements.

Your Committees heard testimony from the Department of Education supporting the intent of this resolution, and pointing out that it will be very difficult for the State to fully implement PL 94-142 without full and immediate funding.

Your Committees on Education and Higher Education concur with the intent and purpose of S.R. No. 27 and recommend its adoption.

Signed by all members of the Committees except Senator Abercrombie.

SCRep. 1033 Health on S.R. No. 206

The purpose of this resolution is to request the Department of Health to conduct a study of the cost effectiveness and other ramifications of the use of paraprofessionals in the health care field.

It is apparent that exploring less costly options to providing high quality health care services is necessary due to the rising cost of current medical services. Increased utilization of health paraprofessionals has been cited as a positive step towards achieving minimum escalation in health care costs while still maintaining quality health care.

Your Committee concurs with the Department of Health testimony stating that the status of health paraprofessionals in Hawaii is unclear. The intent of requesting that a complete study of the training, certification and licensure of all health paraprofessionals be made is to further develop our continuing efforts in containing health care costs.

Your Committee realizes that the scope of this study is broad due to the wide spectrum of health care services and delivery systems that would be affected by health paraprofessionals. Your Committee has amended the resolution to request the Department of Health to conduct a study of the cost effectiveness of health paraprofessionals "within the jurisdiction of the Department of Health" in order to narrow the scope of the request and afford adequate flexibility to the Department to select a particular area within the Department that they feel they are best capable of studying comprehensively.

Your Committee on Health concurs with the intent and purpose of S.R. No. 206, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 206, S.D. 1.

Signed by all members of the Committee except Senator Yee.

SCRep. 1034 Health on S.R. No. 266

The purpose of this resolution is to request the Department of Health to require and to provide for patient rights protocols and systematic procedures to assure that such patient rights protocols are appropriately and effectively carried out in private and county/state hospitals.

Your Committee realizes that clarification of the rights of patients and the provision of adequate mechanisms to assure that thorough patient rights protocols are appropriately implemented are necessary to ensure that patients are recognized and treated as individuals with individual rights and needs. It is your Committee's intent to provide for overall systemized patient rights protocols even though patient rights protocols may already exist at some hospitals at different levels and in different ways.

Your Committee concurs with the intent and purpose of S.R. No. 266, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1035 Economic Development on S.R. No. 125

The purpose of this resolution is to have the senate urge the department of land and natural resources and appropriate private and public agencies to cooperate in the establishment, implementation, and expansion of reforestation in the Kohala, Hawaii area, in pursuit of industrial development, economic and energy security, and employment opportunities in relation thereto.

The goal of the State to be self-sufficient in energy requires the attention and efforts of both government and the private sector to work towards maximum attainment of that goal. The successful implementation and expansion of reforestation programs will benefit the State in that new industries will be developed which will provide increased job opportunities for the people, expand the economic base of the State, and provide a renewable energy resource.

Your Committee finds that the potential for success in the reforestation programs, and hence in the energy goals of the State is great; that this potential provides a significant opportunity for the public and private sectors to combine efforts and resources in the achievement of goals vital to the future well-being of the State of Hawaii; and that cooperative efforts to secure successful reforestation programs will enhance the climate for further advances and opportunities for the development of private sector industries.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 125 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1036 Economic Development on S.R. No. 225

The purpose of this resolution is to request that a study be conducted by the department of planning and economic development in consultation with the department of land and natural resources, the superintendent of education, the civil defense coordinator, the county planning directors of Maui, Kauai, and Hawaii, and the director of land utilization of the city and county of Honolulu. The study would deal collectively with the entire class of sudden-impact environmental hazards including earthquakes, tsunamis, and volcanic eruptions and investigate areas of common concern.

Your Committee finds that a study is necessary to determine the feasibility of a program for information dissemination aimed at reducing losses from environmental hazards. Such a study would consider, among other things, educational programs designed to provide factual information on land use and the threat to properties associated with environmental hazards, including a community resource center for the dissemination of technical and legal advice concerning existing state and federal programs designed to aid in planning loss-reduction measures.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 225 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1037 Economic Development on S.R. No. 335

The purpose of this resolution is to request the department of land and natural resources to initiate actions to enable residents of Maunalaha Valley and members of the Maunalaha Valley Community Association to become eligible for longer term leases, and if existing law does not permit such leases, to submit proposed legislation amending applicable provisions of the Hawaii Revised Statutes to lawfully provide for the issuance of leases through negotiation for periods longer than thirty days.

Your Committee finds that the original settlers of the Maunalaha Stream and the Kanealole Stream areas and their descendants, by their continuous tenancy on the lands in these areas from 1861 to 1919, should have acquired certain rights to purchase these lands in fee or to lease these lands on a long-term basis prior to the proclamation which designated those lands as a forest reserve in 1919.

Your Committee further finds that prior to 1919, through administrative inadvertence by the then Territory of Hawaii, coupled with the designation of the Maunalaha area as a forest reserve in 1919, the residents of the Maunalaha Valley were then effectively precluded from acquiring their residential premises in fee or by long-term leases, and as a consequence, their descendants are now only allowed to occupy their ancestral lands on a month-to-month permit basis.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 335 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1038 Economic Development on S.R. No. 385

The purpose of this resolution is to have the senate declare its firm support for the development and use of alternate energy sources and urge all state and county agencies including boards and commissions to join the legislature in a concerted statewide effort to support the development and utilization of alternate energy resources and to request all state and county agencies to take appropriate affirmative actions to support the development and utilization of alternate energy resources.

Hawaii is fortunate in being generously endowed with an array of renewable alternate energy sources including solar, geothermal, biomass, and wind energy and various studies have shown that the harnessing and utilization of these various alternate energy sources would meet a significant percentage of Hawaii's immediate as well as future energy needs. A major impediment, however, to the current development and utilization of the several alternate energy resources is that these resources may not be currently cost competitive with the fossil fuel based power sources.

Your Committee finds that if the State is serious in its effort to attain the goal of energy self-sufficiency, it is imperative that the state and county governments fully support the development and utilization of the various alternate energy sources.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 385 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1039 Economic Development on S.R. No. 423

The purpose of this resolution is to request that the department of land and natural resources recommend favorable action by the governor in providing the County of Hawaii with the necessary assistance to implement the Conceptual Plan for the Hilo Bayfront Development.

Your Committee finds that the State Tourism Study undertaken by the department of planning and economic development and the Hawaii State Plan enacted by the legislature, both recognize that increased visitor traffic and population growth is desirable for the neighbor islands. A stronger visitor industry will strengthen the Big Island's troubled economic condition and would aid in population dispersal to the neighbor islands by increasing the scope of employment opportunities available on the Big Island.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 423 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1040 Economic Development on S.C.R. No. 78

The purpose of this concurrent resolution is to request the department of land and natural resources to initiate actions to enable residents of Maunalaha Valley and members of the Maunalaha Valley Community Association to become eligible for longer term leases, and if existing law does not permit such leases, to submit proposed legislation amending applicable provisions of the Hawaii Revised Statutes to lawfully provide for the issuance of leases

through negotiation for periods longer than thirty days.

Your Committee finds that the original settlers of the Maunalaha Stream and the Kanealole Stream areas and their descendants, by their continuous tenancy on the lands in these areas from 1861 to 1919, should have acquired certain rights to purchase these lands in fee or to lease these lands on a long-term basis prior to the proclamation which designated those lands as a forest reserve in 1919.

Your Committee further finds that prior to 1919, through administrative inadvertence by the then Territory of Hawaii, coupled with the designation of the Maunalaha area as a forest reserve in 1919, the residents of the Maunalaha Valley were then effectively precluded from acquiring their residential premises in fee or by long-term leases, and as a consequence, their descendants are now only allowed to occupy their ancestral lands on a month-to-month permit basis.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 78 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1041 Economic Development on S.C.R. No. 93

The purpose of this concurrent resolution is to have the legislature declare its firm support for the development and use of alternate energy sources and urge all state and county agencies including boards and commissions to join the legislature in a concerted statewide effort to support the development and utilization of alternate energy resources and to request all state and county agencies to take appropriate affirmative actions to support the development and utilization of alternate energy resources.

Hawaii is fortunate in being generously endowed with an array of renewable alternate energy sources including solar, geothermal, biomass, and wind energy and various studies have shown that the harnessing and utilization of these various alternate energy sources would meet a significant percentage of Hawaii's immediate as well as future energy needs. A major impediment, however, to the current development and utilization of the several alternate energy resources is that these resources may not be currently cost competitive with the fossil fuel based power sources.

Your Committee finds that if the State is serious in its effort to attain the goal of energy self-sufficiency, it is imperative that the state and county governments fully support the development and utilization of the various alternate energy sources.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 93 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1042 Economic Development on S.C.R. No. 110

The purpose of this concurrent resolution is to request that the department of land and natural resources recommend favorable action by the governor in providing the County of Hawaii with the necessary assistance to implement the Conceptual Plan for the Hilo Bayfront Development.

Your Committee finds that the State Tourism Study undertaken by the department of planning and economic development and the Hawaii State Plan enacted by the legislature, both recognize that increased visitor traffic and population growth is desirable for the neighbor islands. A stronger visitor industry will strengthen the Big Island's troubled economic condition and would aid in population dispersal to the neighbor islands by increasing the scope of employment opportunities available on the Big Island.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 110 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1043 Tourism on S.R. No. 435

The purpose of this resolution is to request an interim study by the Senate Committee on Tourism of the proposed State Tourism Functional Plan.

Your Committee finds that the 1979 proposal of the Department of Planning and Economic

Development for a State Tourism Functional Plan has provoked a variety of critical comments and questions during a public hearing at the Senate. Some of these comments and questions are similar to those which arose in response to the 1978 version of a tourism functional plan. Testimony received during the 1979 Senate hearing of the proposed Tourism Functional Plan has stated that the plan has failed to incorporate the concerns of the public as expressed in public informational meetings and committee hearings. Another concern that was raised during the Senate hearing was the lack of a review by the State Plan Policy Council. The concerns stated above reveal a need for further study of the proposed tourism plan.

Your Committee on Tourism concurs with the intent and purpose of S.R. No. 435 and recommends its adoption.

Signed by all members of the Committee except Senator Yee.

SCRep. 1044 Tourism on S.C.R. No. 113

The purpose of this concurrent resolution is to request a joint interim study by the Senate Committee on Tourism and the House of Representatives Committee on Tourism of the proposed State Tourism Functional Plan.

Your Committee finds that the 1979 proposal of the Department of Planning and Economic Development for a State Tourism Functional Plan has provoked a variety of critical comments and questions during a public hearing at the Senate. Some of these comments and questions are similar to those which arose in response to the 1978 version of a tourism functional plan. Testimony received during the 1979 Senate hearing of the proposed Tourism Functional Plan has stated that the plan has failed to incorporate the concerns of the public as expressed in public informational meetings and committee hearings. Another concern that was raised during the Senate hearing was the lack of a review by the State Plan Policy Council. The concerns stated above reveal a need for further study of the proposed tourism plan.

Your Committee on Tourism concurs with the intent and purpose of S.C.R. No. 113 and recommends its adoption.

Signed by all members of the Committee except Senator Yee.

SCRep. 1045 (Joint) Education and Transportation on S.R. No. 35

The purpose of this resolution is to request the Department of Education and the Department of Transportation to study the feasibility of staggered school hours in order to alleviate traffic congestion.

Your Committees find that critical traffic congestion occurs near schools at the same time motorists are going to work. Since there is no information available currently on the possible effects that staggered school hours may have on time and fuel saved, and the social effects on students, parents, teachers and the motoring public, your Committees find that it is necessary that a feasibility study be conducted to answer these questions.

Your Committees heard testimony from the Department of Education and Transportation that they are willing to cooperate in such a study. The Department of Education declared that it is prepared to evaluate requests to change the opening and closing hours of schools, and to evaluate such requests in consultation with district school advisory councils, students, school employees, parents, union representatives, and school and district staff. The Department of Transportation agreed that traffic congestion may be alleviated by staggering school hours, and has already selected a consultant firm to determine a feasible plan to establish work and school hour changes.

From evidence presented at the hearing, your Committees are convinced that a significant step can be taken to alleviate traffic congestion by staggering school hours. Your Committees on Education and Transportation concur with the intent and purpose of S.R. No. 35 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 1046 Education on S.R. No. 224

The purpose of this resolution is to request the Department of Education to review the way in which electronic data processing techniques and systems can best be used to facilitate management functions, as well as, instructional programs in the schools, and to develop a plan to install such systems.

Your Committee finds that the Department of Education's record keeping and processing

of information on students, on the budget, and on property inventories are mostly compiled and maintained manually. Your Committee heard testimony that the Department is the tenth largest school system in the United States, with approximately 170,000 students and 18,000 employees. Your Committee finds that an organization of this size and complexity is seriously hampered if it cannot plan for and develop electronic data processing systems to facilitate its operations.

Your Committee on Education concurs with the intent and purpose of S.R. No. 224 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1047 (Majority) (Joint) Education and Higher Education on S.R. No. 253

The purpose of this resolution is to urge the Department of Education and the University of Hawaii community college system to develop a comprehensive and integrated program in commercial agriculture, and to consider the feasibility of establishing a degree or certificate for a "Certified Agricultural Technician".

Your Committees find that students in our schools who wish to be prepared for the new technology and new techniques in commercial agriculture are not necessarily able to receive this training at the high school or community college level. Two programs currently exist at Hawaii Community College and Maui Community College which result in an associate in science degree or a certificate of achievement. Your Committees are concerned that the present system does not provide for earning a Certified Agricultural Technician designation, nor does it provide for an integrated program beginning in the secondary schools and ending at the community college level.

Your Committees have made a technical amendment to the resolution to correct the word "operatings" to "operations" in the second paragraph.

Your Committees on Education and Higher Education concur with the intent and purpose of S.R. No. 253, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 253, S.D. 1.

Signed by all members of the Committees except Senator Anderson.
Senator Kawasaki did not concur.

SCRep. 1048 Consumer Protection and Commerce on S.R. No. 377

The purpose of this resolution is to request a study of the present program of providing no-fault automobile insurance coverage to public assistance recipients including alternative methods with a direction towards the reduction of the cost of administration.

Your Committee feels that it is in the public's interest to seek methods to reduce the cost of the program while continuing to provide effective coverage to its recipients.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 377 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1049 Consumer Protection and Commerce on S.R. No. 442

The purpose of this resolution is to request a review and study of the certified public accountancy requirements in Hawaii to assure fairness in licensing requirements and continued professional competence to further the protection of the public.

Your Committee on Consumer Protection and Commerce notes that there has been concern and discussion over Hawaii's certified public accountancy requirements and therefore recommends that a study and review be undertaken to ascertain the law's relevancy in light of public need and uniformity of licensing requirements.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 442 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1050 Consumer Protection and Commerce on S.C.R. No. 117

The purpose of this concurrent resolution is to request a review and study of the certified

public accountancy requirements in Hawaii to assure fairness in licensing requirements and continued professional competence to further the protection of the public.

Your Committee on Consumer Protection and Commerce notes that there has been concern and discussion over Hawaii's certified public accountancy requirements and therefore recommends that a study and review be undertaken to ascertain the law's relevancy in light of public need and uniformity of licensing requirements.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 117 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1051 Ways and Means on S.R. No. 100

The purpose of this resolution is to seek funds for the development and construction of a sewage treatment facility in the Honokaa area of the Big Island in order to qualify the area for housing funding assistance by the Farmers Home Administration.

Your Committee finds that the Laupahoehoe Sugar Company has been attempting to develop housing for its employees in the Honokaa area through the funding assistance of the Farmers Home Administration. To qualify, however, for such financial assistance, a new sewage treatment facility suitable for meeting the public health needs in that area must be constructed. This resolution requests the department of health to seek the funds necessary to develop and construct that sewage treatment facility. The director of health, George Yuen, submitted testimony agreeing with and supporting this resolution.

Your Committee further finds that the construction of such a new sewage treatment facility may facilitate additional development of needed housing in that region.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 100 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1052 Ways and Means on S.R. No. 409

The purpose of S.R. No. 409 is to have the department of taxation prepare a study of the relative advantages, disadvantages, and impact of the three basic methods by which the State's income tax law can be automatically conformed with the Internal Revenue Code as it is amended from time to time.

Your Committee finds that the provisions of section 2 of Article VII of the Constitution which permits the legislature to provide that the state income tax law automatically conforms with the Internal Revenue Code including future amendments to the Code offers new methods for achieving close conformity between the two laws. Each system, however, appears to have unique advantages and disadvantages which should be identified, discussed, and evaluated before the option provided in section 2 of Article VII is exercised. The study proposed in S.R. No. 409 would provide the basis for this discussion and evaluation by the legislature. The department of taxation has testified that it supports the proposed study but would welcome the support of the legislative reference bureau. Your Committee requests that the bureau respond to any requests for assistance from the department relative to this study within the bureau's expertise.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 409 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1053 Ways and Means on S.R. No. 410

The purpose of this resolution is to request your Committee on Ways and Means to conduct an interim study of the feasibility of interfacing the contribution and benefit elements of the Employees' Retirement System with those of the federal Social Security program, including an examination of the interface proposal contained in S.B. No. 1122, S.D. 1, Regular Session of 1979.

A study conducted by Alexander Grant and Company recommended that the State integrate the contribution and benefit elements of the Employees' Retirement System and the Social Security System. The present absence of such interface or integration between the two systems may result in excessive costs to both the employee and the employer, by distorting

any intended relationship between contributions and benefits. A study of the feasibility of such interfacing is therefore appropriate to ensure that adequate retirement benefits will continue to exist under such a system.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 410 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1054 Ways and Means on S.C.R. No. 102

The purpose of S.C.R. No. 102 is to have the department of taxation prepare a study of the relative advantages, disadvantages, and impact of the three basic methods by which the State's income tax law can be automatically conformed with the Internal Revenue Code as it is amended from time to time.

Your Committee finds that the provisions of section 2 of Article VII of the Constitution which permits the legislature to provide that the state income tax law automatically conforms with the Internal Revenue Code including future amendments to the Code offers new methods for achieving close conformity between the two laws. Each system, however, appears to have unique advantages and disadvantages which should be identified, discussed, and evaluated before the option provided in section 2 of Article VII is exercised. The study proposed in S.C.R. No. 102 would provide the basis for this discussion and evaluation by the legislature. The department of taxation has testified that it supports the proposed study but would welcome the support of the legislative reference bureau. Your Committee requests that the bureau respond to any requests for assistance from the department relative to this study within the bureau's expertise.

Your Committee on Ways and Means concurs with the intent and purpose of S.C.R. 102 and recommends its adoption.

Signed by all members of the Committee except Senator Young.

SCRep. 1055 Ways and Means on S.C.R. No. 103

The purpose of this concurrent resolution is to request your Committee on Ways and Means and the Committee on Finance of the House of Representatives to conduct an interim study of the feasibility of interfacing the contribution and benefit elements of the Employees' Retirement System with those of the federal Social Security program, including an examination of the interface proposal contained in S.B. No. 1122, S.D. 1, Regular Session of 1979.

A study conducted by Alexander Grant and Company recommended that the State integrate the contribution and benefit elements of the Employees' Retirement System and the Social Security System. The present absence of such interface or integration between the two systems may result in excessive costs to both the employee and the employer, by distorting any intended relationship between contributions and benefits. A study of the feasibility of such interfacing is therefore appropriate to ensure that adequate retirement benefits will continue to exist under such a system.

Your Committee on Ways and Means concurs with the intent and purpose of S.C.R. No. 103 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1056 Ways and Means on H.C.R. No. 149

The purpose of this concurrent resolution is to request the department of taxation to conduct a study of the feasibility of adopting the federal zero bracket method of computing the standard deduction for the purposes of the state personal income tax; and, if adoption is recommended, to submit proposed legislation to enact the department's recommendations. It is the intent of this concurrent resolution that the amounts of the zero brackets in such proposed legislation shall not result in a loss of tax revenues.

Your Committee heard S.C.R. No. 104 which is the same as this resolution. The department of taxation testified in favor of this resolution and notes that the adoption of the federal zero bracket method of computing the standard deduction would be beneficial to the taxpayers of the State. Your Committee finds that the adoption of the zero bracket method of computation conforms to the legislature's past efforts in conforming the state income tax law with the federal Internal Revenue Code.

Your Committee notes and the department of taxation testified that the failure to adopt

the federal zero bracket method of computing the standard deduction and reporting only excess itemized deductions is confusing to some of our taxpayers, and can too easily lead to the payment of excess state income tax by individuals who do not realize the difference between the state and federal systems of calculating and reporting deductions. This arises from the fact that the federal method results in the reporting of deductions only if they exceed the basic zero bracket amounts of \$3,400 for joint returns and \$2,300 for single returns. Under the present state law the standard deduction is 10 per cent of adjusted gross income and thus varies with the amount of income, and itemized deductions should be reported in full rather than net of a fixed "zero bracket" amount.

House Concurrent Resolution No. 149 specifically provides that the requested study and any resulting proposed recommended legislation is to address only the issue of facilitating taxpayer compliance and shall be so designed as to avoid any loss of tax revenues. Your Committee agrees with these provisions and does not wish this study to become involved in the more complex issues of tax relief or reallocation of tax burdens among taxpayers.

Your Committee on Ways and Means concurs with the intent and purpose of H.C.R. No. 149 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1057 Ways and Means on Gov. Msg. No. 41

Recommending that the Senate advise and consent to the nomination of HIDEO MURAKAMI, as Comptroller, for term ending December 6, 1982.

Signed by all members of the Committee.

SCRep. 1058 Ways and Means on Gov. Msg. No. 45

Recommending that the Senate advise and consent to the nomination of EILEEN R. ANDERSON, as Director of the Department of Budget and Finance, for term ending December 6, 1982.

Signed by all members of the Committee.

SCRep. 1059 Ways and Means on Gov. Msg. No. 54

Recommending that the Senate advise and consent to the nomination of GEORGE FREITAS, as Director of the Department of Taxation, for term ending December 6, 1982.

Signed by all members of the Committee.

SCRep. 1060 Transportation on S.R. No. 66

The purpose of this resolution is to emphasize to the Department of Transportation the great social benefits of planting ground cover, trees, shrubs, and flowers along our land transportation system; and to request that the Department of Transportation make a concerted effort to increase its planting along our land transportation corridors.

The Department of Transportation testified that it has embarked on a comprehensive program to beautify our airport gateways through downtown destinations. Priority has been placed on these routes since the visual quality of these highways creates the first impression to most visitors and are routes heavily traveled by our residents. The Department of Transportation further testified that plans for highway beautification are considered in all ongoing and new projects.

Your Committee supports the Department of Transportation highway beautification program that will enhance the appearance of our highways and roads.

Your Committee has amended this resolution by deleting the reporting requirement by the Department of Transportation on its highway beautification program and by making technical amendments.

Your Committee has further amended this resolution to include your Committee's concern that the Department of Transportation expedite the implementation of all highway beautification projects.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 66, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 66, S.D. 1.

Signed by all members of the Committee.

SCRep. 1061 Transportation on S.R. No. 436

The purpose of this resolution is to request the Department of Accounting and General Services to review the parking facilities, policies and rates of all state and county agencies and their impact on traffic congestion in Hawaii; and to undertake a study on alternative transportation modes to alleviate the problems of parking facilities and traffic congestion.

Your Committee heard testimony from the Department of Accounting and General Services that, in 1978, the Hawaii Energy Conservation Council was established by the Governor to undertake a study on the conservation of energy. As a result of the study, the Council prepared the "Report on Ridesharing". This report includes recommendations for implementing a comprehensive ridesharing program that will aid in managing the transportation system under conditions of limited, expensive energy, and fixed capacity. Your Committee believes that this Report contains important recommendations, however, it does not include the specific information required by this resolution.

Your Committee finds that the data and recommendations requested by this resolution will assist the legislature in proposing legislation for the forthcoming Regular Session.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 436 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1062 Transportation on Gov. Msg. No. 55

Recommending that the Senate advise and consent to the nomination of RYOKICHI HIGASHIONNA, as Director of the Department of Transportation, for term ending December 6, 1982.

Signed by all members of the Committee.

SCRep. 1063 Public Utilities on S.R. No. 82

The purpose of this resolution is to request that the Public Utilities Commission review the proposed national energy bills that will have an impact on the State of Hawaii.

The National Energy Conservation Policy Act is comprised of 1) National Energy Conservation Act, 2) Public Utility Regulatory Policies Act of 1978, 3) Powerplant and Industrial Fuel Use Act of 1978, 4) Natural Gas Policy Act of 1978, and 5) Energy Tax Act of 1978. These Acts consist of a variety of assistance programs, incentives, and mandatory standards and requirements designed to result in energy conservation by consumers, business and the public sector.

Your Committee believes that the Public Utilities Commission should maintain an overall control in the public utility field and keep abreast on all federal legislation that will ultimately affect the people of the State.

Your Committee amended the due date of the report to twenty days prior to the convening of the Regular Session of 1980.

Your Committee on Public Utilities is in accord with the intent and purpose of S.R. No. 82, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 82, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1064 (Majority) Health on S.R. No. 265

The purpose of this resolution is to request that the Mental Health Association in Hawaii be the lead agency in developing and formulating recommended standards for mental health patient's rights, including rights with regard to electroconvulsive therapy and associated medications.

Your Committee realizes the importance of providing for the rights of patients in hospitals and other treatment settings as a means of ensuring appropriate care and treatment of patients. We realize that the development and formulation of patient's rights standards for incorporation into medical practice, including hospitals and other health care facilities, will significantly aid in present efforts to ensure that patients have an adequate opportunity for relevant input into their care and treatment. It is your Committee's intent to include standards for mental health patients, with particular reference to electroconvulsive therapy and associated treatments.

Your Committee heard testimony recommending that the Mental Health Division/Department of Health be designated as the lead agency, rather than the Mental Health Association. It was questioned whether it is within the jurisdiction of the State to require a private agency, such as the Mental Health Association, to develop and formulate standards, without adequate appropriation of funds, and that the request should be directed to a department within the state government. Your Committee has amended the resolution accordingly.

Your Committee further amended the resolution by specifying the Department of the Attorney General and the Department of the Judiciary as participants in the development and formulation of standards.

Your Committee on Health concurs with the intent and purpose of S.R. No. 265, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 265, S.D. 1.

Signed by all members of the Committee.
Senator Saiki did not concur.

SCRep. 1065 Health on S.R. No. 373

The purpose of this resolution is to request a study of the feasibility of allowing the use of drugs in optometric practice.

National discussion has arisen regarding the possibility of extending to optometrists the right to use certain drugs as a regular part of their professional practice. Your Committee received testimony from the Hawaii Board of Examiners in Optometry and the Hawaii Optometric Association that the use of diagnostic pharmaceutical agents by optometrists would facilitate the early diagnosis and detection of diseases and conditions of the eye.

Your Committee recognizes that the possible impact of allowing the use of drugs by this group must be measured in several ways. These considerations include the relative safety or danger posed by the drugs, the relative educational background and training of optometrists and the relevance thereof to the question of appropriateness of authorizing use of drugs in optometric practice, and the possible cost savings that such a policy may effectuate, in terms of early diagnosis and detection of disease.

Your Committee has amended the resolution to request the report to be submitted 10 days prior to the convening of the 1980 Regular Session, and to add the Board of Ophthalmology and the Hawaii Medical Association-Ophthalmology Section to the list of organizations specifically requested to assist in the study.

Your Committee on Health concurs with the intent and purpose of S.R. No. 373, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 373, S.D. 1.

Signed by all members of the Committee.

SCRep. 1066 Health on S.C.R. No. 74

The purpose of this concurrent resolution is to request a study of the feasibility of allowing the use of drugs in optometric practice.

National discussion has arisen regarding the possibility of extending to optometrists the right to use certain drugs as a regular part of their professional practice. Your Committee received testimony from the Hawaii Board of Examiners in Optometry and the Hawaii Optometric Association that the use of diagnostic pharmaceutical agents by optometrists would facilitate the early diagnosis and detection of diseases and conditions of the eye.

Your Committee recognizes that the possible impact of allowing the use of drugs by this group must be measured in several ways. These considerations include the relative safety or danger posed by the drugs, the relative educational background and training of optometrists and the relevance thereof to the question of appropriateness of authorizing use of drugs in optometric practice, and the possible cost savings that such a policy may effectuate, in terms of early diagnosis and detection of disease.

Your Committee has amended the resolution to request the report to be submitted 10 days prior to the convening of the 1980 Regular Session, and to add the Board of Ophthalmology and the Hawaii Medical Association-Ophthalmology Section to the list of organizations specifically requested to assist in the study.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 74, as amended

herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.C.R. No. 74, S.D. 1.

Signed by all members of the Committee.

SCRep. 1067 Agriculture on Gov. Msg. No. 42

Recommending that the Senate advise and consent to the nomination of JOHN FARIAS, as Chairman of the Board of Agriculture, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1068 Higher Education on S.R. No. 223

The purpose of this resolution is to request the President of the University of Hawaii to submit a status report on the nursing degree program of the University of Hawaii.

Your Committee heard testimony from the University of Hawaii's Vice-President for Academic Affairs in which he stated that the University had identified the areas of concern and had begun a reassessment of future plans for nursing programs.

A proposal to discontinue the Associate Degree in Nursing program at Manoa has been reconsidered by the School of Nursing, and has been withdrawn. There are no immediate plans to discontinue the A.D.N. program at Manoa.

The University is currently in the process of developing a comprehensive statewide plan which would be used if the A.D.N. program at Manoa were discontinued. A group that includes nursing educators, hospitals and the State Department of Health are working with the University's Office of Academic Affairs in order to develop reliable information, suggestions, and reactions, and to prepare a report of needs for nursing education and nurses at different levels.

Your Committee has amended the resolution to reflect the fact that the A.D.N. program at Manoa will not be phased out although it had been considered.

Your Committee has further amended this resolution by deleting the fifth "WHEREAS" paragraph because of a recent Attorney General's opinion which stated with regard to Section 457-5(a)(2), HRS: ". . . insofar as it purports to empower the board of nursing to approve curricula for educational programs preparing persons for licensure, as contrasted with empowering the board of nursing to prescribe standards for licensure, is in conflict with Article IX, Section 5, of the State Constitution. Article IX, Section 5, vests in the board of regents of the University of Hawaii the power, in accordance with law, to formulate policy, and exercise control over the University." This opinion further states that "[p]ursuant to this constitutional grant, the board of regents approves programs and curricula at the University." (Article IX, Section 5 has been renumbered Article X, Section 6 and contains a change in wording from "in accordance with" to "as provided by", law.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 223 as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 223, S.D. 1.

Signed by all members of the Committee.

SCRep. 1069 Economic Development on S.R. No. 384

The purpose of this resolution is to support the development of a film processing industry in the State.

Your Committee finds that the lack of a film processing firm has been an obstacle to the local industry's desire to make Hawaii more competitive as a film center. The loss of production time and the substantial cost of shipping footage back to the mainland for processing have served as inhibitors in developing Hawaii's full potential in the film world. A film processing firm in the Islands would not only generate jobs and revenues in the State but would also diversify the economy. It would also create goodwill, publicity, and a favorable business environment for Hawaii within the relatively close-knit cinematic and television communities in the United States and abroad.

Your Committee supports the establishment of a film processing industry in the State and the general purpose of the resolution. Your Committee has amended the resolution, however, by inserting updated figures for expenditures, estimated revenues, jobs, and taxes generated by the film industry and by making other language and style changes.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 384, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 384, S.D. 1.

Signed by all members of the Committee.

SCRep. 1070 (Joint) Education and Higher Education on S.R. No. 190

The purpose of this resolution is to request the Board of Education and the Board of Regents to investigate the feasibility of allowing dropouts and potential dropouts to enroll in vocational education courses in the community college system, and report their findings to the Legislature prior to the convening of the 1980 Regular Session.

Your Committees find that there is a pilot project being tested in the Honolulu school district for a Career Opportunities Program. This program provides job skills training to secondary students through the Manpower Training Office of the U.H. community college system. Although the Department of Education testified that they would prefer to review the results of this project before starting another alternative, your Committees find that it is desirable to investigate the feasibility of expanding the scope of this program as well as extending it to other school districts.

Your Committees have amended the resolution to direct the resolution to the U.H. community college system rather than to the U.H. Board of Regents.

Your Committees on Education and Higher Education concur with the intent and purpose of S.R. No. 190 as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 190, S.D. 1.

Signed by all members of the Committees except Senator Anderson.

SCRep. 1071 (Majority) Education on S.R. No. 215

The purpose of this resolution is to have the Legislative Reference Bureau conduct a feasibility study of converting Waianae High School into a marine high school with an emphasis on vocational and life skills.

Your Committee finds that a pilot program called "Ho'i Ana Ike Kai" (Return to the Sea) is currently being instituted at Waianae High School and is being funded through the University of Hawaii Sea Grant College program. The program utilizes the ocean as a living laboratory to teach the sciences as well as the humanities. This program is also being supported by the Kamehameha Schools, the Waianae Hawaiian Culture Heritage Center, McInerny Foundation, Liliuokalani Trust, and the Hawaiian Foundation.

Your Committee feels that additional studies should be conducted to explore the possibility of expanding the innovative program.

Your Committee on Education concurs with the intent and purpose of S.R. No. 215 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 1072 Health on S.R. No. 94

The purpose of this resolution is to encourage employers to consider epileptics for employment.

Your Committee recognizes the existence of inaccurate and out-dated beliefs regarding epilepsy, and the effect this information has on employment opportunities for those individuals afflicted with this condition.

Current data indicates that over one-half of all epileptics are able to totally prevent seizures through the use of certain drugs, and that a significant proportion of epileptics are also able to partially control their disorders through the use of such drugs. In light of these current strides in controlling epilepsy, the majority of epileptics are not the employment risks which they were once all thought to be, and which many persons continue to believe they are.

Testimony from the State Planning and Advisory Council on Developmental Disabilities noted that the Plan for Nationwide Action on Epilepsy by the Commission for the Control of Epilepsy and its Consequences found that the "average employer will not hire a person he knows has had a seizure within one year;" that "no data supports the thesis that employment

of persons with epilepsy will increase accident rates or insurance costs" and that "the unemployment rate among those with epilepsy is twice the national average . . .".

Your Committee recognizes that epileptics are entitled to equal employment opportunities, and deserve to be evaluated for employment on the basis of individual qualifications rather than as a class.

Your Committee on Health concurs with the intent and purpose of S.R. No. 94 and recommends that it be referred to the Committee on Human Resources.

Signed by all members of the Committee except Senator Yee.

SCRep. 1073 Legislative Management

Informing the Senate that S.R. Nos. 462 to 470, Conf. Com. Rep. Nos. 3 to 79 and Stand. Com. Rep. Nos. 1018 to 1072 have been printed and are ready for distribution.

Signed by all members of the Committee.

SCRep. 1074 Judiciary on H.B. No. 742

The purpose of this bill is to amend section 286-102(d), Hawaii Revised Statutes, to expressly allow taxi drivers who would be operating vehicles of 10,000 pounds or less gross vehicle weight rating (GVWR) to be as young as 18 years of age and to require that persons driving vehicles of over 10,000 pounds GVWR for compensation be a minimum of 21 years of age with persons between the ages of 18 and 21 excepted if they are enrolled in a driver training program approved by the Director of Transportation.

Your Committee finds that the present minimum age requirements for persons who drive for compensation are unclear due to conflicting provisions contained in section 286-102(d)(1), Hawaii Revised Statutes, and the Public Utilities Commission General Order Number 2, the former setting the age to drive for compensation at 18 with the latter setting the minimum age at 21 for taxi drivers and those operating vehicles in commerce of more than 10,000 pounds. This bill clarifies the state age requirements for all types of motor vehicle operation for compensation.

Your Committee further finds that this bill will provide increased employment for young people, particularly in rural areas of the State, by providing for the exception for those enrolled in an approved driver training program.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 742, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 1075 Judiciary on H.B. No. 867

The purpose of this bill is to remove the requirement that an appeal of a decision of the liquor commission to the circuit court be de novo.

Under section 281-92, Hawaii Revised Statutes, a decision of the liquor commission appealed to the appropriate circuit court is required to be heard by that court de novo, that is, anew, with the findings of fact and evidence brought before the commission having no force and effect. This bill would remove the requirement for a hearing de novo in the appropriate circuit court, and would allow it, in its discretion, to accept or reject findings of fact and/or evidence from the prior administrative action.

Your Committee finds that the requirement for a hearing de novo in the existing law causes duplicative hearings, is time-consuming, and places an unnecessary burden on witnesses and our crowded court system. Further, your Committee feels that chapter 91, Hawaii Revised Statutes, governing administrative appeals to the circuit court already provides an alcoholic beverage licensee appellant with adequate safeguards and protection. Your Committee feels that the requirement should be deleted and recommends favorable consideration of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 867 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 1076 Judiciary on H.B. No. 1211

The purpose of this bill is to implement Article X, Section 6, of the Constitutional Convention of 1978 pertaining to the jurisdiction of the Board of Regents, University of Hawaii.

The 1978 Constitutional amendment grants exclusive jurisdiction over the internal organization and management of the University of Hawaii to the Board of Regents, subject to legislative power to enact laws of statewide concern. The amendment also requires the legislature to implement this mandate through the enactment of appropriate legislation.

The intent of the amendment is to resolve governance problems at the University of Hawaii.

However, based on the Committee Reports of the Committees on Higher Education of both the House of Representatives and the Senate, and the questions raised by the Legislative Reference Bureau in its information pamphlet on the 1978 Constitutional amendments (particularly concerning the respective powers of the Governor and the Legislature), your Committee believes that the full implementation of this Constitutional amendment will require further study and implementing legislation in the coming years.

In dealing with this problem from a judicial standpoint, your Committee feels that the House draft will serve as the initial step toward the full implementation of the Constitutional amendment.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1211, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 1077 Judiciary on H.B. No. 1656

The purpose of this bill is to amend Section 298-60, Hawaii Revised Statutes, to provide that unauthorized vehicles parked on public library grounds may be towed away at the vehicle owner's expense or the owner or driver of the vehicle arrested upon complaint of the person in charge of the library.

Presently, Section 298-60 provides for the same penalties for unauthorized vehicles parked on school grounds.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1656, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 1078 (Joint) Health and Judiciary on S.R. No. 406

The purpose of this resolution is to request a study on the issue of retention of medical records.

Your Committees recognize that medical records represent individual citizens, and are a valuable source of information for establishing a person's susceptibility to certain illness through their own medical history as well as medical records of other family members. Medical records have a perpetual value to the patient and physician for clinical verification, as well as for epidemiological and genetic research, and medico-legal evidence.

Your Committees received testimony indicating that the cost to medical facilities for long-term retention may be significant, and that there may be difficulties in storage and retrieval. It is the intent of your Committees to determine whether the cost and burden to the medical facilities for long-term retention is overly significant so as to outweigh the social and human health benefits, or the potential damage to the public if records are destroyed.

Your Committees have amended the resolution as follows:

(1) Requesting the President of the Senate to appoint an interim committee to function during the interim to study the facts of the matter and possible options and their implications and impact on the full range of health care providers to ascertain the best possible approach to this problem;

(2) Requesting that this committee submit its findings, conclusions, and recommendations to the Legislature 10 days prior to the opening of the Regular Session of 1980;

(3) Adding Hawaii Medical Association, Hospital Association of Hawaii, Hawaii Medical Records Association, University of Hawaii School of Medicine, and Cancer Center of Hawaii to those organizations requested to cooperate in the study;

(4) Resolving that the Senate hereby requests all health care providers to suspend implementation of policies regarding destruction of medical records for one year from the adoption of this resolution;

(5) Adding additional clauses to further explain the intent of this resolution.

Your Committees on Health and Judiciary concur with the intent and purpose of S.R. No. 406, as amended herein and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 406, S.D. 1.

Signed by all members of the Committees.

SCRep. 1079 Judiciary on H.B. No. 288

The purpose of this bill is to change the requirement for the issuance of a new birth certificate where a person has had a sex-change operation.

Under present law, before a new birth certificate is issued to a person who has had a sex-change operation, the doctor who performed the operation must submit an affidavit verifying the operation.

H.B. No. 288, would change this requirement to allow the Department of Health to issue a new birth certificate upon presentation of an affidavit from a physician who has examined the person in question after a sex-change operation and finds that such person's gender has in fact been changed by the operation.

Testimony on this bill was received from the Department of Health which urges the passage of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 288 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Ushijima.

SCRep. 1080 Economic Development on H.C.R. No. 37

The purpose of this House Concurrent Resolution is to request President Carter to invoke the Pelly Amendment to the Fishermen's Protective Act to prevent the illegal slaughter of whales.

Your Committee finds that some measure of protection must be afforded to the population of endangered Humpback Whales which have been designated as Hawaii's marine mammal.

Your Committee on Economic Development concurs with the intent and purpose of H.C.R. No. 37, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1081 (Majority) Economic Development on S.R. No. 401

The purpose of this resolution is to request that the U.S. Department of Interior and the state department of land and natural resources jointly consent to occasionally allow the capture of bait in the lagoons of the Leeward Hawaiian Islands by two survey vessels chartered to survey the surface tuna resources in the area.

Of the approximately 11,000 pounds of bait that will be needed for the twenty days of the survey, less than fifty per cent will be provided by the baitfish facility in Maui. This means that additional sources of bait will be required in order to conduct the tuna survey. Because of the great potential for increased tuna catches in the Leeward Hawaiian Islands, it is essential that bait be made available to conduct this important exploratory work to assess the potential of the tuna resources in the Leeward Islands.

In order to ensure that no damage is done to the fragile environment in the Leeward Hawaiian Islands, your Committee has amended the first resolve clause to read as follows:

"BE IT RESOLVED by the Senate of the Tenth Legislature of the State of Hawaii, Regular Session of 1979, that the U.S. Department of Interior and the State Department of Land

and Natural Resources are requested to jointly consent to permitting these two survey vessels to occasionally capture bait in the lagoons of the Leeward Hawaiian Islands for the purposes of this study; provided that qualified technicians and researchers be required to accompany the survey vessels to observe and assess the impact of allowing these two survey vessels to capture bait on the environment and wildlife in the Leeward Hawaiian Islands."

Your Committee has made other minor language changes in the resolution.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 401, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 401, S.D. 1.

Signed by all members of the Committee.
Senator Carroll did not concur.

SCRep. 1082 (Joint) Government Operations and Efficiency and Judiciary on S.R. No. 324

The purpose of this resolution is to request the chairmen of the Committees on Government Operations and Efficiency and Judiciary of the Senate to conduct an interim study of the transfer of state programs and organizational segments and report their findings and recommendations to the 1980 Regular Session of the Legislature.

Your Committees find that the reassignment of programs and organizational segments would improve accountability, efficiency and effectiveness in the operations of the Executive Branch and would improve the delivery of services to the people.

Your Committees on Government Operations and Efficiency and Judiciary are in accord with the intent and purpose of S.R. No. 324, and recommends that it be referred to the Committee on Legislative Management for further consideration.

Signed by all members of the Committees except Senators Chong and Ushijima.

SCRep. 1083 (Joint) Government Operations and Efficiency and Judiciary on S.C.R. No. 73

The purpose of this concurrent resolution is to request the chairmen of the Committees on Government Operations and Efficiency and Judiciary of the Senate to conduct an interim study of the transfer of state programs and organizational segments and report their findings and recommendations to the 1980 Regular Session of the Legislature.

Your Committees find that the reassignment of programs and organizational segments would improve accountability, efficiency and effectiveness in the operations of the Executive Branch and would improve the delivery of services to the people.

Your Committees on Government Operations and Efficiency and Judiciary are in accord with the intent and purpose of S.C.R. No. 73, and recommends that it be referred to the Committee on Legislative Management for further consideration.

Signed by all members of the Committees except Senators Chong and Ushijima.

SCRep. 1084 Judiciary on Gov. Msg. No. 43

Recommending that the Senate advise and consent to the nomination of WAYNE K. MINAMI, as Attorney General of the State of Hawaii, for term ending December 6, 1982.

Signed by all members of the Committee except Senator Cobb.

SCRep. 1085 Health on S.R. No. 325

The purpose of this resolution is to request the Governor to release prior and future appropriations for the renovation, repair and maintenance of the old Kona Hospital.

Your Committee recognizes the need for additional office space to house various state, county, and private agencies serving the needs of the Kona community. Since the old Kona Hospital is no longer used as a hospital due to the relocation to the new Kona Hospital, the existing building could fulfill the space needs of various agencies in the community.

It is the intent of your Committee to request the release of prior and future appropriations to renovate, repair, and maintain the old Kona Hospital in order to make the facility available for community use.

Your Committee on Health concurs with the intent and purpose of S.R. No. 325 and recommends its adoption.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 1086 Judiciary on S.C.R. No. 94

The purpose of this concurrent resolution is to study the master plan for a juvenile justice system as presented in the 1974 Juvenile Justice Plan and Supplement No. 1 (1979).

Your Committee recognizes the growing problem of juvenile crime in Hawaii. It feels that the integration and coordination among various agencies and departments involved with juvenile justice in the State is essential to a successful juvenile justice system. Therefore, your Committee intends to have the study closely examine the way in which the Juvenile Justice Plan Supplement addresses this problem.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 94, and recommends that it be adopted.

Signed by all members of the Committee except Senators Cobb, Mizuguchi, Takitani and Carroll.

SCRep. 1087 Judiciary on S.C.R. No. 106

The purpose of this concurrent resolution is to request an interim study on coordination between the sub-units of the state criminal justice system.

Your Committee finds that a comprehensive study is necessary to evaluate the available resources, the extent of duplicative effort, and the efficiency in coordination of the sub-units of the state criminal justice system.

Your Committee finds that of paramount importance in evaluating the efficiency and coordination of the sub-units of the criminal justice system, are the related information efforts. Most, if not all, sub-units in the system gather, share, and store information to implement their respective policy objectives. Your Committee feels that careful examination should be given to the interface capabilities of the various computer and information systems, to the degree of duplication and of duplicate data bases, to the extent of cooperation and efficacy of the various efforts.

Your Committee feels that a healthy criminal justice system is one which is both efficient in the performance of its duties, and fair in fulfilling its functions. Your Committee feels that the criminal justice system must be both fiscally efficient and also efficient in terms of information gathering, processing, and sharing among the various other sub-units. The sub-units, to adequately complement and support each other, must have appropriate policy guidelines to both define and specify the liabilities, and to ensure confidentiality and integrity of information systems and interfaces without compromising the sub-units' interaction.

Your Committee finds that the criminal justice system of the State of Hawaii is composed of agencies of different needs and requirements which obliges any information sharing system to be flexible to meet the particular needs of state or county agencies. A shared information system must reproduce information in a both meaningful and comprehensible manner if the system is to be viable.

Your Committee further finds study to be necessary in determining the extent and validity of computer use, data collection, and statistical analysis in the following agencies: the police departments, offices of the prosecutor of the respective counties, office of the attorney general, the judiciary, the corrections division, the state law enforcement planning agency, the crime commission, and any other sub-unit of the state criminal justice system. The Hawaii criminal justice information center, as established by H.B. No. 282, H.D. 1, requires examination in its functions and interactions as a sub-unit of the criminal justice center. The Hawaii crime commission, as established by statute, also requires examination in its functions and interactions in this area particularly with respect to the issues raised in the committee report attached to S.B. No. 1680, S.D. 1, H.D. 1, C.D. 1.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 106 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Cobb, Mizuguchi, Takitani and Carroll.

SCRep. 1088 Judiciary on S.C.R. No. 107

The purpose of this concurrent resolution is to request an interim study, by both Senate and House Judiciary Committees, of the State of Hawaii's laws concerning guardianship, civil commitment, and protective services.

Your Committee finds that there is a continuing need for an evaluation of the laws and programs of the State to ascertain if the public health and welfare, as well as rights to due process, are adequately served by present laws relating to guardianship, civil commitment, and protective services.

Many citizens of the State, due to physical or mental disabilities, are unable to make choices for themselves or to adequately protect their rights. Various laws allow legal intervention in the lives of such disabled persons, effectively removing their right of choice, vesting that right in another person. However, statutory procedures for civil commitment of mentally ill persons have previously been found to be in violation of the due process clause of the Fourteenth Amendment of the U.S. Constitution, resulting in confusion in connection with the treatment and possible civil commitment of persons who may be mentally disabled.

Testimony received by your Committee was unanimous in support of this concurrent resolution. The state department of social services and housing particularly stressed the area of protective services as needing review. The department of social services and housing testimony noted both the population increase of those persons requiring protective services, and the need for a coordinated program of services and laws ensuring that the special needs of this group are met, while at the same time protecting their rights.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 107 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Cobb, Mizuguchi, Takitani and Carroll.

SCRep. 1089 Judiciary on S.C.R. No. 108

The purpose of this concurrent resolution is to have the Senate and House of Representatives meet in joint session to appoint a chairman of the Hawaii Crime Commission.

Your Committee, upon further consideration, has amended this concurrent resolution to provide that the chairman shall be appointed during the Regular Session of 1980. This was done because of the limited time available during the remainder of the 1979 session, and the desire of your Committee to fully review candidates for the position. As such, your Committee has also amended the concurrent resolution to provide that the present chairman continue to serve until a new chairman is appointed.

Senate Concurrent Resolution No. 108 was also amended to provide that the Senate and House Judiciary Committees hold interim hearings to review potential candidates for the position of chairman of the Hawaii Crime Commission, and report back to the Legislature, Regular Session of 1980.

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 except Senators Cobb, Mizuguchi, Takitani and Carroll.

SCRep. 1090 Judiciary on S.C.R. No. 112

The purpose of this concurrent resolution is to have the Senate and House Judiciary Committees review the proposed statutory changes to the Hawaii Revised Statutes with the director of the legislative reference bureau and the revisor of statutes.

During the 1979 regular session, the revisor, through the legislative reference bureau, submitted a report and a 103-page bill (S.B. No. 918-79, H.B. No. 1140-79) resulting from an examination of each of the ten volumes of the Hawaii Revised Statutes to make nonsubstantive changes. Due to the length of the bill and the time constraint of a regular session, it placed a tremendous strain upon your Committee to carefully examine the bill and to make appropriate recommendations to the Senate.

The director of the legislative reference bureau informed your Committee and the House

Judiciary Committee that his office and the revisor will again review the Hawaii Revised Statutes to determine the necessity of changes which they referred as "not purely of a 'technical nature'". Their report will again result in a bill draft of substantial length.

Your Committee feels that the extensive and concentrated examination that will be needed for such a bill, especially since it will contain more than technical-nonsubstantive changes to the Hawaii Revised Statutes, will require an interim study. Without such a study, your Committee feels that it will not have the time to adequately examine the bill during the regular session of 1980.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 112, and recommends its adoption.

Signed by all members of the Committee except Senators Cobb, Mizuguchi, Takitani and Carroll.

SCRep. 1091 Judiciary on S.C.R. No. 122

The purpose of this concurrent resolution is to request a study of the problems raised by S.B. No. 1415 and to review the study entitled "Bail Summary" submitted by Judge John C. Lanham during the interim between the 1979 and 1980 legislative sessions.

Your Committee finds that under present law a judge may withhold bail before conviction only when the charge against the defendant could result in life imprisonment without possibility of parole. It appears that there should be further criteria under which a judge may reasonably withhold bail, however, an in-depth study is necessary to determine those criteria.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 122 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Cobb, Takitani and Carroll.

SCRep. 1092 Judiciary on S.C.R. No. 123

The purpose of this concurrent resolution is to require an interim study of the establishment and placement of the Hawaii criminal justice information data center.

The conference committee report on H.B. No. 282, H.D. 1, S.D. 2, C.D. 1, which establishes the data center notes that there were unresolved questions relating to the data center concerning (1) the relationship of the center with other state and county law enforcement agencies, (2) the permanent location of the center for administrative purposes, (3) whether there should be and who should appoint an advisory committee, and (4) whether the director of the center should be appointive and if so by whom.

This concurrent resolution provides for the study of these and other questions regarding the data center and your Committee is in favor of its adoption.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 123 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Cobb, Mizuguchi, Takitani and Carroll.

SCRep. 1093 Judiciary on S.C.R. No. 10

The purpose of this concurrent resolution is to request Congress to exempt the State of Hawaii from the multi-lingual requirements of Title III of the Voting Rights Act as amended in 1975.

Your Committee finds that the multi-lingual requirement for the printing of voter information and ballots is a financial burden on the State as indicated by the 1976 and 1978 elections statistics. An actual decline in foreign language ballot requests was demonstrated between those two election years, possibly a result of the substantial decline in the illiteracy rate in English of the foreign language sub-groups since 1970.

Your Committee received testimony in unanimous support of this concurrent resolution. Testimony also supported the Office of the Lieutenant Governor which has developed and conducted various voter registration and education programs whose success is demonstrated by the six per cent increase in voter turnout between the 1974 and 1976 General Elections. Your Committee feels that voter information programs of the Office of the Lieutenant Governor have been more effective and more cost-effective than the multi-lingual requirements

of Title III of the Voting Rights Act.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 10 and recommends its adoption.

Signed by all members of the Committee except Senators Cobb, Mizuguchi, Takitani and Carroll.

SCRep. 1094 Ways and Means on Gov. Msg. No. 469

Recommending that the Senate advise and consent to the nomination of DENNIS L. LAU, to the Board of Taxation Review, First Taxation District - Oahu, for term ending December 31, 1982.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1095 Ways and Means on Gov. Msg. No. 471

Recommending that the Senate advise and consent to the nomination of BARRY K. TANIGUCHI, to the Board of Taxation Review, Third Taxation District - Hawaii, for term ending December 31, 1982.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1096 Ways and Means on Gov. Msg. No. 470

Recommending that the Senate advise and consent to the nomination of CHARLES J. LELAND, to the Board of Taxation Review, First Taxation District - Oahu, for term ending December 31, 1981.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1097 Ways and Means on Gov. Msg. No. 472

Recommending that the Senate advise and consent to the nomination of ATSUSHI HIRANO, to the Board of Taxation Review, Fourth Taxation District - Kauai, for term ending December 31, 1982.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1098 Ways and Means on Gov. Msg. No. 473

Recommending that the Senate advise and consent to the nomination of GEORGE E. LUPPOLD, to the Board of Taxation Review, Second Taxation District - Maui, for term ending December 31, 1982.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1099 Ways and Means on Gov. Msg. No. 474

Recommending that the Senate advise and consent to the nomination of KANJI WAKAMATSU, to the Board of Taxation Review, Second Taxation District - Maui, for term ending December 31, 1979.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1100 Agriculture on Gov. Msg. Nos. 119, 120, 121 and 122

Recommending that the Senate advise and consent to the nominations of the following:

RICHARD I.C. CALDITO, to the Board of Agriculture, for term ending December 31, 1979; and

BARRY M. BRENNAN, PH.D., KATSUMI HIGA and GEORGE M. NAKASATO, to the Advisory Committee on Pesticides, for terms ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1101 Intergovernmental Relations on Gov. Msg. Nos. 429 and 430

Recommending that the Senate advise and consent to the nominations of ROBERT H. ISHIMOTO and ROLAND D. SAGUM, to the Civil Defense Advisory Council, for terms ending December

31, 1982.

Signed by all members of the Committee except Senators Abercrombie, O'Connor and Yee.

SCRep. 1102 Legislative Management

Informing the Senate that S.R. Nos. 471 to 476 and Stand. Com. Rep. Nos. 1074 to 1101 have been printed and are ready for distribution.

Signed by all members of the Committee except Senator O'Connor.

SCRep. 1103 (Joint) Economic Development, Education and Higher Education on S.R. No. 26

The purpose of this resolution is to request the University of Hawaii and the Department of Education to develop and implement a curriculum plan for training in aquaculture, and to submit a report on their respective progress prior to the convening of the 1980 session of the Legislature.

Your Committees heard testimony supporting this resolution from the Department of Education and the Department of Planning and Economic Development. Both departments reported that plans are already underway to implement aquaculture education and training programs. It was reported that the University of Hawaii offers three courses in aquaculture, and the Department of Education has aquaculture projects at three high schools. With further coordinated planning, it is believed instruction and training in aquaculture can provide trained persons to assist in the development, operation, and expansion of the aquaculture industry.

Your Committees on Economic Development, Education, and Higher Education concur with the intent and purpose of S.R. No. 26 and recommend its adoption.

Signed by all members of the Committees except Senator Anderson.

SCRep. 1104 (Majority) Education on S.R. No. 211

The purpose of this resolution is to request the Department of Education to establish a Center for Creative and Performing Arts on the island of Hawaii, and to report its progress to the 1980 session of the Legislature.

Your Committee heard testimony from a member of the Board of Education supporting this resolution. Your Committee also heard from the Department of Education supporting the intent of the resolution regarding the importance of the arts in education, but indicating the Department is not yet ready to set up a separate Center for Creative and Performing Arts. The Department testified that because it is concerned with its current commitment to education in the arts for all students statewide, the cost of a separate Center would disrupt its existing priorities. Your Committee finds, however, that the Department should report on its intentions in establishing a separate arts education center.

Your Committee concurs with the intent and purpose of S.R. No. 211 and recommends its adoption.

Signed by all members of the Committee except Senator Anderson.
Senator Kawasaki did not concur.

SCRep. 1105 (Joint) Education and Higher Education on S.R. No. 247

The purpose of this resolution is to request the Department of Education and the University of Hawaii to submit a joint status report on the employment status of trained teachers who are not employed in their profession.

Your Committees heard testimony from the University of Hawaii pertaining to a follow-up survey of the 1977-78 graduates of the college of education which indicated that of the 421 graduates, approximately 30% are employed as full-time teachers, 14% are employed as part-time teachers, 26% are employed in non-teaching jobs, and the remaining 30% were either in graduate school, unemployed or were not reached by the survey. Additionally, your Committees heard testimony from the Department of Education indicating that it has data on over 3000 teacher applicants, but that the data did not include information on the applicants' current employment status.

Your Committees realize that there is a surplus of teaching professionals and that the lack of employment opportunities has resulted in many trained professionals being unemployed,

or having to accept employment in occupations in which they are not trained or in which they are overtrained.

Your Committees are informed that there are current programs that are employed to alleviate this problem, however, your Committees feel that a continued effort is needed to study and develop additional methods to solve this problem.

Your Committees feel that additional data and information is needed on the employment situation of teachers so that a thorough analysis and review can be accomplished.

Your Committees have amended this resolution to provide that the two State agencies must submit the status report twenty days prior to the convening of the 1980 legislative session.

Your Committees on Education and Higher Education concur with the intent and purpose of S.R. No. 247 as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 247, S.D. 1.

Signed by all members of the Committees except Senator Anderson.

SCRep. 1106 Ways and Means on S.R. No. 148

The purpose of this resolution is to request the department of health to conduct a feasibility study on implementation of an ability-to-pay based fee schedule for services rendered to the developmentally disabled. The resolution further seeks formulation of recommendations by the department of health and the department of education to facilitate or improve the coordination of their efforts in providing services for the developmentally disabled.

Your Committee finds that the feasibility of a fee schedule for developmental disabilities services should be explored, so that the needs of the developmentally disabled can be met at optimum levels. In addition, the jurisdictional difficulties encountered by the department of health and education in providing for the developmentally disabled must be given immediate attention, so that full services are available without further administrative problems.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 148 and recommends its adoption.

Signed by all members of the Committee except Senators Abercrombie, Ajifu, Soares and Yee.

SCRep. 1107 Ways and Means on H.C.R. No. 159

The purposes of this concurrent resolution are (1) to request federal waiver of the Comprehensive Employment and Training Act (CETA) time limitations relating to participation in the CETA program; (2) to request release of federal discretionary funds to enable the continued full implementation of the CETA programs in Hawaii, and (3) to request support of such waivers, release of funds, and other congressional and administrative action necessary to alleviate the high rate of unemployment in the State of Hawaii.

Your Committee finds that the goals of the participation time limits set for the CETA program are designed to promote and encourage the movement of individuals from the CETA program to unsubsidized employment situations, thereby lessening dependence upon CETA. However, the time limits set create a definite hardship for the State of Hawaii, which has been experiencing unemployment rates significantly above the national average. There appears to be insufficient time for the State to prepare for the tremendous impact which the new time limitation will have, owing to the retroactive nature of the federal provision. Accordingly, your Committee agrees that the time limitations will result in severe hardship for persons currently under the CETA program, and believes that the waiver allowed by federal law for such situations should be sought. The funds to carry the program are also required.

Your Committee on Ways and Means concurs with the intent and purpose of H.C.R. No. 159, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Abercrombie, Ajifu, Soares and Yee.

SCRep. 1108 Public Utilities on S.R. No. 81

The purpose of this resolution is to request the Public Utilities Commission to review the action taken as a result of the Legislative Auditor's Management Report of 1975.

Your Committee heard testimony that, since the establishment of the three member full-time commission, the agency has taken some corrective action on the statutory and management deficiencies pointed out in the management audit. Some of the changes included:

1. Transfer of the non-economic safety regulation of motor vehicle operations to the Department of Transportation;
2. Revision of the Commission's General Order No. 1, Rules of Practice and Procedures, which establishes guidelines for filing of rate increases;
3. Establishment of a decision and order registry for internal control and monitoring.

Your Committee further finds that the commission is continuously implementing the changes recommended by the Legislative Auditor's report, however in some cases, changes have been hampered by the lack of personnel within the agency.

Your Committee amended the due date of the report to "prior to the convening of the Regular Session of 1980".

Your Committee on Public Utilities is in accord with the intent and purpose of S.R. No. 81, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 81, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1109 Public Utilities on S.R. No. 83

The purpose of the resolution is to request the Director of the Public Utilities Division, Department of Regulatory Agencies to review its present organizational structure and operation to insure that the people of the State are served in a fair and equitable manner.

Your Committee finds that the Public Utilities Division has implemented many of the recommendations of the Legislative Auditor. In implementing the recommendations, the Public Utilities Division has established priorities in areas that required immediate attention due to risk of life and property losses. One example was in the area of motor carrier safety. The Legislative Auditor found that the motor carrier safety program of the Public Utilities Commission and the Public Utilities Division to be lacking. In view of the finding of the Legislative Auditor, the Public Utilities Division instituted a program to enforce the regulations of motor carrier safety.

Your Committee finds further, that the regulation of cable television (CATV) is administered by the Cable Television Division, Department of Regulatory Agencies rather than the Public Utilities Commission. Your Committee believes that the Public Utilities Commission and Public Utilities Division are beyond the transitional period, and the non-economic and economic functions of these agencies should be separated.

Your Committee amended the due date of the report to twenty days prior to the convening of the Regular Session of 1980.

Your Committee on Public Utilities is in accord with the intent and purpose of S.R. No. 83, as amended herein, and recommends its adoption as S.R. No. 83, S.D. 1.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1110 (Majority) Public Utilities on S.R. No. 113

The purpose of this resolution is to request the Legislative Auditor to conduct a comprehensive review of the Public Utilities Division in relation to recommendations of the Legislative Audit Report No. 75-3 of the public utilities program.

Your Committee feels that, while much has been accomplished to improve the organizational structure, and the policies and procedures of the Public Utilities Division, there is still room for improvements. Your Committee believes that the tasks of reviewing, evaluating and monitoring the many difficult and complex issues and problems of the public utilities are essential for the good of the overall program.

Your Committee amended the due date of report to December 15, 1979.

Your Committee on Public Utilities is in accord with the intent and purpose of S.R. No. 113, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 113, S.D. 1.

Signed by all members of the Committee except Senator Anderson.
Senator Yamasaki did not concur.

SCRep. 1111 Consumer Protection and Commerce on S.R. No. 376

The purpose of this resolution is to request that a study be made concerning sales activities relating to condominiums located outside Hawaii.

Your Committee is concerned that while extensive regulations govern out-of-state lands and in-state condominiums there has been little regulation of condominiums located outside Hawaii which are being sold within the State of Hawaii to its residents. Your Committee is of the opinion that this lack of regulation could result in fraudulent and deceptive sales practices.

Your Committee has amended this resolution by substituting the Department of Regulatory Agencies for the Committee on Consumer Protection and Commerce as the agency requested to conduct the study.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 376, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 376, S.D. 1.

Signed by all members of the Committee.

SCRep. 1112 (Majority) Consumer Protection and Commerce on H.C.R. No. 79

The purpose of this concurrent resolution is to seek and investigate ways by which the renter may benefit by the accrual of interest on rental deposits.

Your Committee is aware that the typical amount requested for a security deposit is a month's rent. While your Committee would hesitate to impose further bookkeeping responsibilities upon the landlord, it is in accord with the intent of this concurrent resolution to allow renters some return on their money.

Your Committee has amended this concurrent resolution to request that this study be conducted by the Office of Consumer Protection because the Office administers the landlord-tenant code. Your Committee has further amended this concurrent resolution so as to include the participation of all groups and organizations, both public and private, which have an interest in this area.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of H.C.R. No. 79, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 79, H.D. 1, S.D. 1.

Signed by all members of the Committee.
Senator Yee did not concur.

SCRep. 1113 Housing and Hawaiian Homes on Gov. Msg. Nos. 387, 388, 389 and 390

Recommending that the Senate advise and consent to the nominations to the Factory-Built Housing Advisory Board, of the following:

ROBERT McFARLANE, TOM T. NEKOTA and GARY K.S. SIU, for terms ending December 31, 1982; and

MAURICE H. YAMASATO, for term ending December 31, 1981.

Signed by all members of the Committee.

SCRep. 1114 Housing and Hawaiian Homes on Gov. Msg. Nos. 391 and 392

Recommending that the Senate advise and consent to the nominations to the Hawaii Community Development Authority, of the following:

HELEN K. GRIFFIN and YOSHIO YANAGAWA, for terms ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1115 Housing and Hawaiian Homes on Gov. Msg. Nos. 393, 394 and 395

Recommending that the Senate advise and consent to the nominations to the Hawaiian Homes

Commission, of the following:

HAZEL K. KAUAHIKAUA and JUBILEE M. MOIKEHA, for terms ending December 31, 1982; and
COLETTE Y. MACHADO, for term ending December 31, 1980.

Signed by all members of the Committee.

SCRep. 1116 Housing and Hawaiian Homes on Gov. Msg. Nos. 396, 397 and 398

Recommending that the Senate advise and consent to the nominations to the Advisory Council for Housing and Construction Industry, of the following: CHEW HOY LEE, RICHARD S. MATSUNAGA and NANCY T. TAYLOR, for terms ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1117 Human Resources on Gov. Msg. No. 399

Recommending that the Senate advise and consent to the nomination of EDWARD K. FUJIMOTO, Ph.D., to the State Advisory Council for Children and Youth, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1118 Human Resources on Gov. Msg. No. 400

Recommending that the Senate advise and consent to the nomination of ROGER K. KATSUTANI, to the State Advisory Council for Children and Youth, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1119 Human Resources on Gov. Msg. No. 401

Recommending that the Senate advise and consent to the nomination of KAREN ANNE OSHIRO, to the State Advisory Council for Children and Youth, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1120 Human Resources on Gov. Msg. No. 402

Recommending that the Senate advise and consent to the nomination of GERALDINE Y.O. UNG, to the State Advisory Council for Children and Youth, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1121 Human Resources on Gov. Msg. No. 403

Recommending that the Senate advise and consent to the nomination of MORGAN B. WHITE, to the State Advisory Council for Children and Youth, for term ending December 31, 1980.

Signed by all members of the Committee.

SCRep. 1122 Human Resources on Gov. Msg. No. 405

Recommending that the Senate advise and consent to the nomination of KENNETH TANAKA, to the Civil Service Commission, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1123 Human Resources on Gov. Msg. No. 406

Recommending that the Senate advise and consent to the nomination of ROSALINA S. DOMONDON, to the Policy Advisory Board for Elderly Affairs, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1124 Human Resources on Gov. Msg. No. 407

Recommending that the Senate advise and consent to the nomination of MERL W. HAWTHORNE, to the Policy Advisory Board for Elderly Affairs, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1125 Human Resources on Gov. Msg. No. 408

Recommending that the Senate advise and consent to the nomination of ROSE HORNER to the Policy Advisory Board for Elderly Affairs, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1126 Human Resources on Gov. Msg. No. 409

Recommending that the Senate advise and consent to the nomination of THEODORE D. HUSSEY to the Policy Advisory Board for Elderly Affairs, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1127 Human Resources on Gov. Msg. No. 410

Recommending that the Senate advise and consent to the nomination of SHIMEJI KANAZAWA to the Policy Advisory Board for Elderly Affairs, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1128 Human Resources on Gov. Msg. No. 411

Recommending that the Senate advise and consent to the nomination of HARRY K. TAKARA, to the Policy Advisory Board for Elderly Affairs, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1129 Human Resources on Gov. Msg. No. 412

Recommending that the Senate advise and consent to the nomination of MASAICHI TASAKA, to the Policy Advisory Board for Elderly Affairs, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1130 Human Resources on Gov. Msg. No. 413

Recommending that the Senate advise and consent to the nomination of LORNA KAKESAKO, to the Hawaii Employment Relations Board, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1131 Human Resources on Gov. Msg. No. 414

Recommending that the Senate advise and consent to the nomination of DENNIS K.S. CHUN, to the Commission on the Handicapped, for term ending December 31, 1980.

Signed by all members of the Committee.

SCRep. 1132 Human Resources on Gov. Msg. No. 415

Recommending that the Senate advise and consent to the nomination of JUDITH DOKTOR, to the Commission on the Handicapped, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1133 Human Resources on Gov. Msg. No. 416

Recommending that the Senate advise and consent to the nomination of SUSAN FLOYD, Ph.D., to the Commission on the Handicapped, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1134 Human Resources on Gov. Msg. No. 417

Recommending that the Senate advise and consent to the nomination of GEORGIA E. MORIKAWA, to the Commission on the Handicapped, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1135 Human Resources on Gov. Msg. No. 418

Recommending that the Senate advise and consent to the nomination of WAYNE K. MIYAMOTO, to the Commission on the Handicapped, for term ending December 31, 1980.

Signed by all members of the Committee.

SCRep. 1136 Human Resources on Gov. Msg. No. 419

Recommending that the Senate advise and consent to the nomination of E. JOHN McCONNELL, to the Labor and Industrial Relations Appeals Board for a ten year term.

Signed by all members of the Committee.

SCRep. 1137 Human Resources on Gov. Msg. No. 420

Recommending that the Senate advise and consent to the nomination of ROBERT H. KESSNER, Ph.D., to the Advisory Commission on Manpower and Full Employment, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1138 Human Resources on Gov. Msg. No. 421

Recommending that the Senate advise and consent to the nomination of CHERLYN K. LOGAN, to the Advisory Commission on Manpower and Full Employment, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1139 Human Resources on Gov. Msg. No. 422

Recommending that the Senate advise and consent to the nomination of GUY R. TATEISHI, to the Advisory Commission on Manpower and Full Employment, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1140 Human Resources on Gov. Msg. No. 423

Recommending that the Senate advise and consent to the nomination of JAMES BROWN, to the Board of Trustees, Hawaii Public Employees Health Fund, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1141 Human Resources on Gov. Msg. No. 424

Recommending that the Senate advise and consent to the nomination of MICHAEL L. JOY, to the Board of Trustees, Hawaii Public Employees Health Fund, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1142 Human Resources on Gov. Msg. No. 425

Recommending that the Senate advise and consent to the nomination of JAMES D. WILLIAMS, to the Board of Trustees, Hawaii Public Employees Health Fund, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1143 Human Resources on Gov. Msg. No. 426

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, 1982.

Signed by all members of the Committee.

SCRep. 1144 Human Resources on Gov. Msg. No. 427

Recommending that the Senate advise and consent to the nomination of PAUL PLADERA,

to the Board of Vocational Rehabilitation, for term ending December 31, 1979.

Signed by all members of the Committee.

SCRep. 1145 Human Resources on Gov. Msg. No. 428

Recommending that the Senate advise and consent to the nomination of TERRANCE W.H. TOM, to the Board of Vocational Rehabilitation, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1146 Ecology, Environment and Recreation on Gov. Msg. Nos. 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, and 248

Recommending that the Senate advise and consent to the nominations of the following:

NOBORU IWAMI, to the Environmental Council, for term ending December 31, 1980;

EUGENE S. KANESHIRO, EUGENE M. KAWAGUCHI, M.D., MOHAMMAD A. KHAN, Ph.D., and CAROL H. MAEHARA to the Environmental Council, for terms ending December 31, 1982;

DOROTHY R. BABINEAU to the Environmental Quality Commission, for term ending December 31, 1980;

CORNELIUS CHOY, MARVIN T. MIURA, Ph.D., and TOM H. TAKANO, to the Fish and Wildlife Advisory Committee, City and County of Honolulu, for terms ending December 31, 1980;

ALLAN K. IKAWA, WAYNE S. OGATA and JOSE E. SORIANO, to the Fish and Wildlife Advisory Committee, County of Hawaii, for terms ending December 31, 1980;

LARRY K.K. SAITO, JEFFREY G. BRYANT and GORO SADAOKA, to the Fish and Wildlife Advisory Committee, County of Kauai, for terms ending December 31, 1980;

RONALD E. KULA and CHRISTY MAMIYA, to the Fish and Wildlife Advisory Committee, County of Maui, for terms ending December 31, 1980;

RAYMOND Y. SUGITA, to the Board of Certification of Operating Personnel in Wastewater Treatment Plants, for term ending December 31, 1979;

JAMES D. GONSALVES and PAUL L. SEITZ, to the Board of Certification of Operating Personnel in Wastewater Treatment Plants, for terms ending December 31, 1980;

MASAICHI CHINEN and BRIAN L. GRAY, to the Board of Certification of Operating Personnel in Wastewater Treatment Plants, for terms ending December 31, 1981;

CHARLES M. SAIKI, FRANK G. STONE, JR., DENNIS TULANG and REGINALD H.F. YOUNG, D.SC., to the Board of Certification of Operating Personnel in Wastewater Treatment Plants, for terms ending December 31, 1982; and

DENNIS A. DAUGHERTY and GAIL T. KIRIU, to the Pacific War Memorial Commission, for terms ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1147 Ecology, Environment and Recreation on S.R. No. 433

The purpose of this resolution is to request that a study be conducted to determine the need for consolidating environmental functions and the appropriate organizational placement for these functions. The findings are to be submitted in a report prior to the convening of the Regular Session of 1980.

Departmental Communication No. 10, the "General Audit of the Office of Environmental Quality Control" was received by your Committee and Senate Resolution No. 433 follows in reference to the auditors' report.

Upon consideration of the items discussed, your Committee believes that the study as requested in Senate Resolution No. 433 is warranted to determine the necessity of consolidating environmental functions within an organization.

Your Committee on Ecology, Environment and Recreation concurs with the intent and purpose of S.R. No. 433 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Yee.

SCRep. 1148 Judiciary on Gov. Msg. No. 431

Recommending that the Senate advise and consent to the nomination of JAMES A. KING, to the Commission to Promote Uniform Legislation, for term ending December 31, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1149 Judiciary on Gov. Msg. No. 432

Recommending that the Senate advise and consent to the nomination of SOPHIE K. SHEATHER, to the Criminal Injuries Compensation Commission, for term ending December 31, 1980.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1150 Judiciary on Gov. Msg. No. 433

Recommending that the Senate advise and consent to the nomination of DANIEL S. UKISHIMA, to the Criminal Injuries Compensation Commission, for term ending December 31, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1151 Judiciary on Gov. Msg. No. 434

Recommending that the Senate advise and consent to the nomination of NEIL K. OKABAYASHI, to the Hawaii Crime Commission, for term ending June 30, 1980.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1152 Judiciary on Gov. Msg. No. 435

Recommending that the Senate advise and consent to the nomination of ELIZABETH M. ADAMS, M.D., to the Intake Service Center Advisory Board, for term ending December 6, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1153 Judiciary on Gov. Msg. No. 436

Recommending that the Senate advise and consent to the nomination of JOHN J. BLAYLOCK, to the Intake Service Center Advisory Board, for term ending December 6, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1154 Judiciary on Gov. Msg. No. 437

Recommending that the Senate advise and consent to the nomination of PAUL M. DESILVA, to the Intake Service Center Advisory Board, for term ending December 6, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1155 Judiciary on Gov. Msg. No. 438

Recommending that the Senate advise and consent to the nomination of HAROLD J. FALK, Jr., to the Intake Service Center Advisory Board, for term ending December 6, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1156 Judiciary on Gov. Msg. No. 439

Recommending that the Senate advise and consent to the nomination of YOSHIMI HAYASHI, to the Intake Service Center Advisory Board, for term ending December 6, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1157 Judiciary on Gov. Msg. No. 440

Recommending that the Senate advise and consent to the nomination of HALO HIROSE,

to the Intake Service Center Advisory Board, for term ending December 6, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1158 Judiciary on Gov. Msg. No. 441

Recommending that the Senate advise and consent to the nomination of MICHAEL M. KAKESAKO, to the Intake Service Center Advisory Board, for term ending December 6, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1159 Judiciary on Gov. Msg. No. 442

Recommending that the Senate advise and consent to the nomination of LAWRENCE K. KOSEKI, to the Intake Service Center Advisory Board, for term ending December 6, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1160 Judiciary on Gov. Msg. No. 443

Recommending that the Senate advise and consent to the nomination of GERALD S. MATSUNAGA, to the Intake Service Center Advisory Board, for term ending December 6, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1161 Judiciary on Gov. Msg. No. 444

Recommending that the Senate advise and consent to the nomination of TOGO NAKAGAWA, to the Intake Service Center Advisory Board, for term ending December 6, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1162 Judiciary on Gov. Msg. No. 445

Recommending that the Senate advise and consent to the nomination of ROBERT T. OMURA, to the Intake Service Center Advisory Board, for term ending December 6, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1163 Judiciary on Gov. Msg. No. 446

Recommending that the Senate advise and consent to the nomination of THEODORE I. SAKAI, to the Intake Service Center Advisory Board, for term ending December 6, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1164 Judiciary on Gov. Msg. No. 447

Recommending that the Senate advise and consent to the nomination of ROBERT J. STILLWELL, to the Intake Service Center Advisory Board, for term ending December 6, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1165 Judiciary on Gov. Msg. No. 448

Recommending that the Senate advise and consent to the nomination of GEORGE W.Y. TOM, to the Intake Service Center Advisory Board, for term ending December 6, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1166 Judiciary on Gov. Msg. No. 449

Recommending that the Senate advise and consent to the nomination of GEORGE J. CHOULJIAN, to the Hawaii Paroling Authority, for term ending December 31, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1167 Judiciary on Gov. Msg. No. 450

Recommending that the Senate advise and consent to the nomination of SHOTA SAKAI, to the Board of Registration, Island of Oahu, for term ending December 31, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1168 Judiciary on Gov. Msg. No. 451

Recommending that the Senate advise and consent to the nomination of YURIKO N. TASAKA, to the Board of Registration, Kauai and Niihau, for term ending December 31, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1169 Judiciary on Gov. Msg. No. 452

Recommending that the Senate advise and consent to the nomination of MIRIAM K. KAHALEKAI, to the Board of Registration, Maui, Molokai, Lanai and Kahoolawe, for term ending December 31, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1170 Judiciary on Gov. Msg. No. 453

Recommending that the Senate advise and consent to the nomination of NORMA JEAN CHINA, to the Commission on the Status of Women, for term ending December 31, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1171 Judiciary on Gov. Msg. No. 454

Recommending that the Senate advise and consent to the nomination of RUTH FUJIMOTO, to the Commission on the Status of Women, for term ending December 31, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1172 Judiciary on Gov. Msg. No. 455

Recommending that the Senate advise and consent to the nomination of PRISCILLA HAYASHI, to the Commission on the Status of Women, for term ending December 31, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1173 Judiciary on Gov. Msg. No. 456

Recommending that the Senate advise and consent to the nomination of ALTHEA MOMI KAMAU, to the Commission on the Status of Women, for term ending December 31, 1981.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1174 Judiciary on Gov. Msg. No. 457

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, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1175 Judiciary on Gov. Msg. No. 458

Recommending that the Senate advise and consent to the nomination of JUDY T. MAKINODAN, to the Commission on the Status of Women, for term ending December 31, 1982.

Signed by all members of the Committee except Senators Campbell, Chong and Takitani.

SCRep. 1176 Health on S.R. No. 278

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a study of patient rights and informed consent to health care treatment, with particular emphasis upon mental health patients, including electroconvulsive and drug therapy.

Your Committee realizes the importance of the protection of individual rights of patients, particularly mental health patients, and the necessity of providing sufficient guarantees to informed consent to health treatment including, but not limited to, electroconvulsive and drug therapy. It is your Committee's intent to ensure that individuals are not subjected to electroconvulsive therapy against their wills.

Your Committee has amended the resolution such that the Mental Health Division/Department

of Health is the agency charged with the task of developing mental health patient's rights, in conjunction with other interested groups and parties. This amendment is consistent with the amendment to S.R. No. 266. It was cited that it does not seem within the jurisdiction of the state to require a private agency such as the Mental Health Association to develop and formulate standards, and that such a requirement should be directed to a department within state government.

Your Committee further amended the resolution by redefining the scope of the study to ". . . patient rights and informed consent to health care treatment, with particular emphasis upon the management of mental health patients. . ."

Your Committee is in accord with the intent and purpose of S.R. No. 278, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 278, S.D. 1.

Signed by all members of the Committee.

SCRep. 1177 Health on S.R. No. 341

The purpose of this resolution is to request a study on the availability of adult care homes in Hawaii, the needs of the elderly with respect to such homes, to ascertain if different levels of care provided by adult care homes are needed, and possible incentives to expand the number of available care homes.

Your Committee recognizes that the elderly population has unique needs which deserve proper care and attention, and that each individual requires different levels of care dependent on his/her health and physical status.

The Department of Health testimony stated that they have an on-going relationship with the Department of Social Services and Housing with respect to care homes, including those homes for the elderly, and that there is a continuing assessment of the need for establishing care homes by the Department of Health. Kookia Council for Senior Citizens cites that many elderly patients are placed in wrong levels of care because there are insufficient facilities at the various levels.

It is the intent of your Committee to assess the needs among the elderly for places where they may reside to accommodate their special needs so as to positively affect the health and well-being of the senior citizens of our State.

Your Committee on Health concurs with the intent and purposes of S.R. No. 341, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1178 (Majority) Public Utilities on S.R. No. 426

The purpose of this resolution is to request the Senate Committee on Public Utilities to conduct an interim study on the public utilities program and recommend improvements to the program.

Your Committee finds that since the establishment of the three member full-time Public Utilities Commission, corrective actions have been taken on the statutory and management deficiencies which were pointed out in the Legislative Auditor's Management Report of 1975.

Your Committee further finds that the Public Utilities Division, Department of Regulatory Agencies has implemented many of the recommendations of the Legislative Auditor. In implementing the recommendations, the Public Utilities Division has established priorities in areas to protect the consumers' interest.

The Public Utilities Commission testified that changes are made continuously, however, in some cases, changes have been hampered by the lack of personnel in the agency.

Your Committee recognizes the importance of an efficient and effective public utilities program as the utilities provide services which affect the welfare, health and safety of the citizens of the State. The program must provide consumers with quality services at reasonable rates.

Your Committee believes that, in order to provide an efficient and effective public utilities program, continuous review, evaluation and monitoring the many difficult and complex issues and problems are essential.

Your Committee further believes that an in-depth review of the programs should be

accomplished to determine the changes required as pointed out in the Legislative Auditor Management Report of 1975. Your Committee recommends that the Legislative Auditor conduct this review and report its findings and recommendations to the Senate Committee on Public Utilities. Your Committee amended the resolution and title accordingly.

Your Committee on Public Utilities concurs with the intent and purpose of S.R. No. 426, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 426, S.D. 1.

Signed by all members of the Committee except Senators Anderson and Soares.
Senator Yamasaki did not concur.

SCRep. 1179 Economic Development on Gov. Msg. Nos. 249, 250, 251, 252, 253, 254 and 255

Recommending that the Senate advise and consent to the nomination of the following:

CHARLES W. DUKE and WILLIAM W.L. YUEN, to the Land Use Commission, for terms ending December 31, 1982;

WILLIAM H. HINDLE, M.D., to the Commission on Population and the Hawaiian Future, for term ending December 31, 1981;

HARVEY N. KAI, to the Commission on Population and the Hawaiian Future, for term ending December 31, 1982; and

MUTSUO HASHIMOTO, KEITH P. HUDSON and LEHUA F. SALLING, to the Commission on the Year 2000, for terms ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1180 Economic Development on Gov. Msg. No. 49

Recommending that the Senate advise and consent to the nomination of SUSUMU ONO, as Chairman of the Board of Land and Natural Resources, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1181 (Joint) Health and Transportation on S.R. No. 386

The purpose of this resolution is to request a study of the adequacy of signs and other emblems on Hawaii's public roads and highways indicating the location of hospitals and emergency medical facilities.

Your Committees recognize that the adequacy, convenience, and conspicuousness of emergency medical facility and hospital locational indicators on Hawaii's roadways is in the best interest to the health and well-being of the citizens of the State. We realize that adequate availability of directions can prevent needless suffering and loss of valuable time to those needing appropriate medical assistance.

Hawaii Emergency Medical Services System testimony estimates that there are more than 250,000 to 300,000 emergencies annually. They estimate that in 1978 on Oahu, only 28,000 are ambulance transactions. These statistics indicate that the majority of patients treated in emergency facilities in Hawaii are transported to the emergency facility by means other than an ambulance. It is apparent, therefore, that directional signs/ symbols to appropriate patient care facilities be significantly located to afford valuable assistance to those patients not transported by an ambulance.

Your Committees have amended the resolution by designating the Department of Transportation as the lead agency in the study, with the Department of Health and the counties of Hawaii, Kauai, Maui, and the City & County of Honolulu, (particularly the public works departments in each county) being requested to provide the necessary assistance for purposes of this resolution.

Your Committees on Health and Transportation concur with the intent and purpose of S.R. No. 386, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 386, S.D. 1.

Signed by all members of the Committees.

SCRep. 1182 (Majority) Health on S.R. No. 372

The purpose of this resolution is to request a study on the inclusion of chiropractic benefits

in the State's prepaid health care coverage and fiscal ramifications resulting from it.

Your Committee recognizes that chiropractic is a licensed secondary service to the treatment of health problems similar to that of naturopathy, and that chiropractic treatment is covered by the State's temporary disability benefits.

Testimony from the Hawaii Chiropractic Association stated that Congress, with Presidential approval, has authorized provisions for chiropractic services under the federal medicare law for all Americans, the Internal Revenue Code as a medical deduction, benefits for federal employees in the federal employee as well as the federal workers compensation program at no additional cost to the insurance community.

Your Committee was advised by the Association that all fifty states have licensed and have approved the provision of chiropractic health services to their residents. In Hawaii's Prepaid Health Care Coverage Act, two of the State's prime objectives were to "encourage the development of medically more desirable combinations of health care benefits and the inclusion of new types of health care benefits", and "to promote early medical attention and preventive health care."

It is your Committee's intent to study the questions that have been raised recently regarding the quality, cost, and utilization of chiropractic services so as to better assess the impact of including chiropractic benefits in the State's prepaid health care coverage.

Your Committee has amended the resolution by adding the Hawaii Chiropractic Health League to those organizations requested to cooperate for purposes of this study.

Your Committee on Health concurs with the intent and purpose of S.R. No. 372, as amended herein, and recommends it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 372, S.D. 1.

Signed by all members of the Committee.
Senators Takitani and Saiki did not concur.

SCRep. 1183 (Joint) Consumer Protection and Commerce and Health on S.R. No. 115

The purpose of this resolution is to request the Board of Massage to review the adequacy of current massage licensing testing procedures and to revise them by diversifying and upgrading them to ensure that persons licensed in the practice of massage have adequate training and understanding in the art of massage.

The art of massage is frequently sought by residents of this state as a mode of therapy for the relief of tension, body aches, or bodily injury. Your Committees realize that the various forms of legitimate massage practice have specific therapeutic effects when properly administered by trained and competent massage therapists. However, the existing massage regulation laws allow the licensing of individuals who have not received practical instruction in massage, resulting in differing levels of qualifications of persons allowed to practice massage within the State.

The inconsistency in training does not seem to be in the best interest of the people of Hawaii who deserve the assurance that, in seeking massage therapy, a properly and adequately trained individual will be performing the therapy.

Your Committees received testimony that in some instances, persons with particular medical problems may actually be harmed by certain types of massage. It seems necessary, therefore, that the training and educational requirements be reviewed to assure that a proper understanding of physiology, muscle anatomy, and other related topics be a required part of the basic knowledge for all persons practicing massage. Your Committees have amended the resolution by adding two clauses noting these concerns.

Your Committees have further amended the resolution by requesting the Board of Massage to submit a report of its findings and recommendations to the Legislature 10 days prior to the convening of the 1980 Regular Session.

Your Committees on Health and Consumer Protection and Commerce concur with the intent and purpose of S.R. No. 115, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 115, S.D. 1.

Signed by all members of the Committees.

SCRep. 1184 Health on Gov. Msg. No. 293

Recommending that the Senate advise and consent to the nomination of JAMES L. SWENSON,

as Administrator, State Health Planning and Development Agency, for term ending December 6, 1982.

Signed by all members of the Committee.

SCRep. 1185 Health on Gov. Msg. Nos. 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376 and 377

Recommending that the Senate advise and consent to the nominations of the following:

JUNEDALE U. HASHIMOTO, ELIZABETH D. MENOR and JAMES T. MIYAHARA, Ph.D., to the Advisory Commission on Drug Abuse and Controlled Substances, for terms ending December 31, 1982;

JOHN R. PENEBACKER, to the Advisory Commission on Drug Abuse and Controlled Substances, for term ending December 31, 1979;

ROBERT M. GIBSON, D.D.S., AMELIA R. JACANG, M.D., and THOMAS Y. KOBARA, M.D., to the Board of Health, for terms ending December 31, 1982;

CAYETANO GERARDO, JERROLD M. MICHAEL, RONALD I. TAKETA, IRA VANTERPOOL, and PAULINE W. YIM, to the Statewide Health Coordinating Council, for terms ending December 31, 1982;

LELAND K.W. CHANG, FAITH LEE, WINIFRED S. THOMPSON, MARY D. VERGARA and GERALD H.B. WONG, D.D.S., to the East Honolulu Subarea Health Planning Council, for terms ending December 31, 1982;

DONALD I. DUNN and CAROLYN K. YAMADA, to the East Honolulu Subarea Health Planning Council, for terms ending December 31, 1980;

TED ADRES and SANDRA L. CHUNG, to the West Honolulu Subarea Health Planning Council, for terms ending December 31, 1980;

JUDITH A. HARTNER, M.D., ANGELINE HEFFNER, LYNN K. MURAKAMI, J. ABRAHAM R. PASADABA and JANIÇE L. RIOS, to the West Honolulu Subarea Health Planning Council, for terms ending December 31, 1982;

RALPH ELIKAN, to the Central Oahu Subarea Health Planning Council, for term ending December 31, 1980;

WALLACE T. HIRAI, SHIRLEY B. MATUTINO, THEODORE A. REMALY and IRA VANTERPOOL, to the Central Oahu Subarea Health Planning Council, for terms ending December 31, 1982;

KAREN S. ISOBE and HAULANI CROFT LEAL, to the Central Oahu Subarea Health Planning Council, for terms ending December 31, 1979;

REGINALD S. LEE to the Central Oahu Subarea Health Planning Council, for term ending December 31, 1981;

MARY JANE AMUNDSON and CLIFFORD E. MILLER, to the Windward Oahu Subarea Health Planning Council, for terms ending December 31, 1980;

CARL T. HAMADA, to the Windward Oahu Subarea Health Planning Council, for term ending December 31, 1981;

RONALD T. HAYASHI, NANCY T. HIGA, KUHIO MAHAULU, Sr., MYRON L. TONG and REBECCA L. UU, to the Windward Oahu Subarea Health Planning Council, for terms ending December 31, 1982;

MARY K. SALTER and JOHN H. WOOLEY, to the Windward Oahu Subarea Health Planning Council, for terms ending December 31, 1979;

MARION A. METZ and GREGORY SOLOMON, to the Waianae Coast Subarea Health Planning Council, for terms ending December 31, 1982;

BARBARA E. MIGUEL, to the Waianae Coast Subarea Health Planning Council, for term ending December 31, 1980;

MARY EVANGELISTA, ELLEN I. KUSANO, REYNOLD MISHINA, STEVEN L. RAISER, D.V.M., and MIMI B. WARSH, to the Hawaii County Subarea Health Planning Council, for term ending December 31, 1982;

MILDRED M. GUERRERO, GENNIE L. KINNEY and NELLIE METCALF, to the Hawaii County Subarea Health Planning Council, for terms ending December 31, 1979;

HARLAND R. REED to the Hawaii County Subarea Health Planning Council, for term ending December 31, 1981;

VIRGINIA BECK, CAYETANO GERARDO, HILDA H. INOUE, GILBERT N. FERNANDES, MALCOLM FERNANDEZ and SATURNINO MEDRANO, to the Kauai County Subarea Health Planning Council, for terms ending December 31, 1982;

JOSEPHINE C. DUVAUCHELLE, to the Kauai County Subarea Health Planning Council, for term ending December 31, 1979;

VIRGINIA A. RAPOZO, to the Kauai County Subarea Health Planning Council, for term ending December 31, 1981;

VIRGILIO R. AGCOLICOL, SIDNEY B. CLARK, M.D., CORAZON E. MASICAMPO, MASAICHI ONO and DOROTHY ROMSON, to the Maui County Subarea Health Planning Council, for terms ending December 31, 1982;

KATHLEEN R. JOHNSON, JO-ANN T. RIDAO and PAULINE TORRECER, to the Maui County Subarea Health Planning Council, for terms ending December 31, 1979;

LAUREEN TANAKA-SANDERS, to the Maui County Subarea Health Planning Council, for term ending December 31, 1980;

MAURICE L. BRODSKY, M.D. and RACHEL S. CHANG, to the County Hospital Management Advisory Committee, City and County of Honolulu, for terms ending December 31, 1982;

CHARLES H. HUSTACE, Jr. and MOON SOO PARK, M.D., to the County Hospital Management Advisory Committee, County of Hawaii, for terms ending December 31, 1982;

DONNA M. SCHULZE, to the County Hospital Management Advisory Committee, County of Kauai, for term ending December 31, 1982;

JOSEPH E. ANDREWS, M.D. and NORMAN H. MURANAKA, to the County Hospital Management Advisory Committee, County of Maui, for terms ending December 31, 1982;

PAUL A. DeMARE, M.D., to the Board of Radiologic Technologists, for term ending December 31, 1982; and

EDITH LaRAE CLEMENTS, KATHLEEN E. GARTRELL, GEORGE H. GREEN, D.D.S., NELLIE T. HIYANE, CLIFFORD M. HORITA, ROY F. KUBOYAMA, M.D., CAROL MATSUZAKI, RALPH M. MURAKAMI, GAY M. OKADA, PATRICIA K. OSGOOD, R.N., DEAN J. TAJIMA, O.D., GILFRED TANABE, Ph.D., STEPHANIE A. TERLEP, HENRY K. TOMINAGA, ED.D. and WILLIAM Y. YAMADA, to the School Health Services Advisory Committee, for terms ending May 31, 1980.

Signed by all members of the Committee.

SCRep. 1186 Judiciary on H.C.R. No. 85

The purpose of this concurrent resolution is to request the House and Senate Judiciary Committees to study the feasibility and desirability of codifying the rules of evidence for Hawaii's courts.

Inasmuch as the rules of evidence can affect the outcome of a case, it is important that we clarify the rules as they apply to our State's courts. Your Committee feels that the proposed study is necessary in order to fully understand the implications and general desirability of codifying the rules of evidence in Hawaii.

Your Committee amended this concurrent resolution to recognize the work on the subject by the Judicial Committee to study the Hawaii Rules of Evidence. Your Committee further amended this concurrent resolution to address the problem of conforming the Hawaii

Rules of Evidence to the Federal Rules of Evidence.

Your Committee concurs with the intent and purpose of H.C.R. No. 85, H.D. 2, as amended herein and recommends its adoption in the form attached hereto as H.C.R. No. 85, H.D. 2, S.D. 1.

Signed by all members of the Committee except Senators Takitani, Ushijima, George and Saiki.

SCRep. 1187 Transportation on Gov. Msg. Nos. 459, 460, 461, 462, 463, 464, 465, 466, 467 and 468

Recommending that the Senate advise and consent to the nominations of the following:

ALAN D. BELDIN, JAMES J. FUJITA, ISAMU KANEDA, YUZURU KANNO, ELIZABETH H. ROSSALL, SAMUEL S. SUZUKI and WAYNE K. TSUKIYAMA, to the State Highway Safety Council, for terms ending December 31, 1982;

JAMES E. ODA, M.D., to the Medical Advisory Board, for term ending December 31, 1980;

DOROTHY WELLS LUM, to the Commission on Transportation, for term ending December 31, 1981; and

MARK K. TANAKA, to the Commission on Transportation, for term ending December 31, 1982.

Signed by all members of the Committee.

SCRep. 1188 Transportation on S.R. No. 62

The purpose of this resolution is to request that the Senate Committee on Transportation review the results of the staggered work hour program and explore additional alternatives to redistribute traffic demands more efficiently.

Your Committee heard testimony from the Department of Personnel Services that on November 1977, the department implemented a flexible work hour program. Broad guidelines were developed where program managers could tailor individual flexible hours while maintaining sufficient levels of service. Under the broad guidelines, two options of flexible hours were available to employees. The glide time option permitted the employee to begin each workday during the hours of 6:30 to 9:00 A.M. The staggered hour option permitted the employee to select one of the staggered times within the band and therefore begin work each day at that same time. Employees who utilize the bus service, carpools and van pools were given preference in selecting the available options.

After a period of time, the department collected statistical data to determine the level of participation by state government employees. The total number of employees reported on Oahu was 14,163. Of this number 7,992 (56%) were already on shift work or starting time between the hours of 7:15 A.M. and 8:15 A.M.; 1,297 (9%) were identified by management to be ineligible to participate in the program; and 4,874 (35%) were offered flexible hours. Of these, 1,022 were placed on glide time, 1,616 elected the staggered hour option and 2,236 chose to remain unchanged.

Your Committee finds that additional statistical data is required to determine the real effectiveness of the program. Your Committee recommends that further study be conducted during the interim to explore alternatives to redistribute traffic demands more efficiently. Accordingly, your Committee amended the resolution.

Your Committee amended the due date of the report to prior to the convening the Regular Session of 1980.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 62, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 62, S.D. 1.

Signed by all members of the Committee.

SCRep. 1189 (Joint) Transportation and Economic Development on S.R. No. 84

The purpose of this resolution is to request the Department of Planning and Economic Development, with the full cooperation and support of the Board of Land and Natural Resources, and the Department of Transportation to study the feasibility of developing dry docking facilities to accommodate vessels with capacities of 30,000 tons or more at the Honolulu

Harbor complex.

Your Committees find that the additional dry dock facilities will be able to accommodate vessels that require repair work. Additionally, these new facilities will provide and expand employment opportunities for the state's work force.

Your Committees on Transportation and Economic Development concur with the intent and purpose of S.R. No. 84 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 1190 Transportation on S.R. No. 188

The purpose of this resolution is to request the Department of Transportation to conduct a feasibility study on the use of reversible lanes on the Likelike Highway between Kalihi and Kaneohe Junction.

Your Committee finds that the Department of Transportation conducted studies on the use of reversible lanes on the Likelike Highway for the State Highway Plan. In order to substantially relieve traffic during the peak morning hours from the windward areas, your Committee recommended that the Pali Highway be included in this study. Your Committee has amended this resolution accordingly.

Your Committee has further amended this resolution to request the Department of Transportation to update its existing studies on the use of reversible lanes on the Likelike and Pali Highways, to coordinate its plans with the City and County, and to present its findings and recommendations to the Legislature 30 days prior to the convening of the Regular Session of 1980.

Your Committee has amended the title of this resolution to include the Pali Highway.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 188, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 188, S.D. 1.

Signed by all members of the Committee.

SCRep. 1191 Transportation on S.R. No. 314

The purpose of this resolution is to request the Governor to submit the State's gasoline shortage contingency plan to the Senate Committee on Transportation for its review and recommendations.

Section 125C, Hawaii Revised Statutes, grants the Governor clear authority to control the distribution and sale of petroleum products when shortages in supply occur or are anticipated that would have disruptive effects upon the public order and welfare. Additionally, the Governor may adopt rules and regulations that will provide measures for the conservation of petroleum products.

Your Committee finds that in light of the continuing uncertainties in the supply of petroleum products, it is incumbent upon the State to pursue measures that will reduce the impact of any gasoline shortages.

Your Committee has amended the resolution to request that the State Energy Office report to the Senate Committee on Transportation on the measures being taken by the State to reduce the impact of gasoline shortage and any recommendations to this effect.

Your Committee has further amended this resolution to request the Senate Committee on Transportation to review the report submitted to the Senate.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 314, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached as S.R. No. 314, S.D. 1.

Signed by all members of the Committee.

SCRep. 1192 Transportation on S.R. No. 370

The purpose of this resolution is to urge the Department of Transportation to expedite construction of a proposed bypass route around Haleiwa town.

The Department of Transportation testified that the planning and design work of this

project should be completed by late 1980, and construction should begin shortly thereafter. This project will be funded with federal and state funds.

Your Committee finds that this project will improve the highway system and benefit the residents of Haleiwa town. Your Committee received testimony from the Chairman of the Neighborhood Board in favor of this resolution.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 370 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1193 Transportation on S.R. No. 437

The purpose of this resolution is to request the Department of Transportation, in coordination with the Department of Planning and Economic Development, the State Energy Office, and the City and County of Honolulu, to continue and expand the Van Go Hawaii Program.

Your Committee finds that the existing Van Go Program consists of a fleet of 15 vans in full operation, and there is a waiting list of people who want to join the program.

Your Committee believes that because of the energy crisis and the lack of a fixed guideway system, it is incumbent upon the Department of Transportation to seek all available federal funds to expand and continue the Van Go Hawaii Program. Your Committee further believes that the Van Go Hawaii Program will relieve traffic congestion and reduce fuel consumption.

Your Committee is cognizant of the fact that there are federal funds available from the Office of the Secretary of the Department of Transportation for a National Ridesharing Demonstration Program.

Your Committee has amended this resolution to include the Federal Aid Urban Fund and the National Ridesharing Demonstration Program as potential sources of funding for the Van Go Hawaii Program.

Your Committee has further amended this resolution to have certified copies transmitted to the Mayor of the City and County of Honolulu.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 437, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 437, S.D. 1.

Signed by all members of the Committee.

SCRep. 1194 Transportation on S.R. No. 441

The purpose of this resolution is to request the Governor and the Director of Transportation to reopen or continue discussions with appropriate military officials on the acquisition of an existing military airfield for a general aviation airport on Oahu.

As in prior discussions on this subject, this resolution drew little argument on the danger to the health and welfare of air travelers and Oahu residents in the present mix of large and small aircraft at Honolulu International Airport. Likewise, there was little argument that the mix can be eliminated or reduced only by the diversion of the smaller aircraft to another airfield intended specifically for the smaller aircraft.

Among the alternative approaches studied by the administration has been that of the joint use of an existing military airfield. At this point, the administration has determined that military resistance to the joint use alternative precludes any more meaningful pursuit of this alternative. Rather, the administration has determined that the State should build a new general aviation airport, and that it should be built in the Poamoho area.

This resolution, however, does not pursue the joint use alternative. Rather, it proposes the further study of the State's acquisition of an existing military airfield, paying for it by such means as a land exchange; construction of appropriate facilities to enable the military to consolidate activities now spread out over several sites into a more efficient, intensively used site; or by the construction of a new base or facility. Military resistance to joint use is understandable, but in examining the various alternatives studied by the administration, it seems to your Committee that, if the State is prepared to spend millions of dollars on the construction of a new airport, perhaps the same funds could be imaginatively offered for the acquisition of an underutilized military airfield.

The Director of Transportation has stated that the department does not oppose this resolution

as long as it can continue to pursue the avenues already taken. A careful reading of the resolution will indicate this to be what the resolution asks.

Your Committee on Transportation is in accord with the intent and purpose of S.R. No. 441 and recommends that it be referred to the Committee on Legislative Management for further consideration.

Signed by all members of the Committee.

SCRep. 1195 Judiciary on S.R. No. 54

The purpose of this resolution is to require the Senate Committee on Judiciary to examine and reassess the existing departmental structure of the executive and legislative branches of government as mandated by Article V, section 6 of the Hawaii State Constitution.

The pertinent language of Article V, section 6 states:

"Section 6. All executive and administrative offices, departments and instrumentalities of the state government and their respective powers and duties shall be allocated by law among and within not more than twenty principal departments in such a manner as to group the same according to common purposes and related functions. Temporary commissions or agencies for special purposes may be established by law and need not be allocated within a principal department."

Your Committee finds that a reassignment or reallocation of various programs and organizational segments of government would result in greater efficiency and accountability within state government.

Your Committee further finds that to properly implement this constitutional amendment, an interim study should first be undertaken to thoroughly assess the functions and duties of the various offices, departments, and instrumentalities of the state government, before a reorganization scheme is adopted by the legislature.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 54, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Campbell, Chong, Takitani and Ushijima.

SCRep. 1196 Judiciary on S.R. No. 389

The purpose of this resolution is to request the Senate Judiciary Committee to study the possibility of establishing comprehensive statutes covering the use and ownership of firearms.

Your Committee finds that several bills relating to this subject were introduced during the Regular Session of 1979, including the areas of night hunting, unserviceable machine guns, and mandatory minimum fines for firearms use violations.

Your Committee also finds that the use and ownership of firearms is of vital concern to the Legislature, as it directly relates to individual rights and public safety. As such, interim hearings need to be conducted to study the entire area, and possibly develop comprehensive legislation which would be introduced to the Regular Session of 1980. During these interim hearings, various groups in the community could testify, and assist the Senate Judiciary Committee in their study.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 389 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Campbell, Chong, Takitani and Ushijima.

SCRep. 1197 Judiciary on S.R. No. 393

The purpose of this resolution is to request that interim hearings be conducted by the Senate Judiciary Committee on the comparative negligence laws of Hawaii.

Your Committee finds that there is a prevailing view in our community that the laws of comparative negligence should be studied, with the goal of codifying them in a Uniform Comparative Fault Act.

Your Committee further finds that interim hearings are necessary, to gather input

from the community and government agencies in order to redraft the comparative negligence laws.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 393 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Campbell, Chong, Takitani and Ushijima.

SCRep. 1198 Judiciary on S.R. No. 396

The purpose of this resolution is to request the Senate Committee on Judiciary to conduct an interim study regarding the constitutionality of Chapter 652, Hawaii Revised Statutes, relating to garnishment.

Your Committee conducted a hearing on March 5, 1979 on S.B. No. 174 which proposed certain amendments to Hawaii's garnishment statute. Testimony was presented to your Committee which stated that section 652-1(b) of the Hawaii Revised Statutes was declared unconstitutional by Federal Judge Samuel King in Betts v. Reliable Collection Agency, Ltd., 431 F.Supp. 1369 (D. Haw. 1977). However, Chapter 652 has not been amended to conform to the Betts ruling which requires the implementation of some form of post-judgment process to protect the exempt property of a debtor.

Your Committee finds that in view of the Betts decision and the resultant confusion which has arisen with regard to its proper implementation, it is necessary to conduct an interim study with regard to the constitutionality of our present garnishment statute and, if necessary, propose changes to the present law.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 396 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Campbell, Chong, Takitani and Ushijima.

SCRep. 1199 Judiciary on S.R. No. 412

The purpose of this resolution is to request the Senate Committee on Judiciary to study the feasibility and desirability of codifying the rules of evidence for Hawaii's courts.

Inasmuch as the rules of evidence can affect the outcome of a case, it is important that the legislature clarify the rules as they apply to this State's courts. Your Committee feels that the proposed study is necessary in order to fully understand the implications and general desirability of codifying the rules of evidence in Hawaii.

Your Committee amended this resolution to stress the need for codifying the rules of evidence of our State and to consider the applicability of the Federal Rules of Evidence for use in Hawaii's courts.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 412, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 412, S.D. 1.

Signed by all members of the Committee except Senators Campbell, Chong, Takitani and Ushijima.

SCRep. 1200 Judiciary on S.R. No. 415

The purpose of this resolution is to request an interim study and interim public hearings on the Constitutional amendments of the 1978 Hawaii State Constitutional Convention which were ratified by the voters at the the general election of November 7, 1978.

Your Committee on Judiciary finds that many of the amendments are complex and require further research before implementing legislation can be passed. Most subject areas of the various amendments will require joint interim hearings and joint decisions by both the respective Senate subject matter committees and the Senate Judiciary Committee.

The Senate Judiciary Committee will also hold additional hearings and, assisted by the Legislative Reference Bureau, will acquire input from the community and from government agencies on the remaining Constitutional amendments requiring implementing legislation.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 415 and

recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Campbell, Chong, Takitani and Ushijima.

SCRep. 1201 Consumer Protection and Commerce on S.R. No. 355

The purpose of this resolution is to conduct a study to determine whether some martial arts tournaments or similar sporting events should be regulated by the State.

Your Committee is concerned about the safety of the participants in the full contact martial arts tournaments that have been staged in Hawaii during the last few years for it should be noted that in one such tournament a participant was fatally injured.

Your Committee agrees that such sports as judo, kendo, aikido, etc., should not fall under regulation because of the recreational, physical fitness, spiritual and artistic aspects of these sports, however, your Committee believes that kickboxing and full contact karate should be the subject of a study to determine whether these events should be under official state supervision and control in a manner similar to the current regulation of boxing events. The study would be conducted by the Department of Regulatory Agencies and should recommend the mechanism and manner of regulation if official state regulation is advisable.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 355, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1202 Consumer Protection and Commerce on Gov. Msg. Nos. 123, 124, 125, 126, 127, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 172, 173, 174, 175, 176, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219 and 220

Recommending that the Senate advise and consent to the nominations of the following:

EFRAIN ANDREWS, JEROME H. ONGIES and PHYLLIS N.T. SHEA, to the Board of Public Accountancy, for terms ending December 31, 1982;

LARRY S. TAMANAHA, to the Board of Public Accountancy, for term ending December 31, 1980;

JOHN T. NAKAJIMA, to the Board of Acupuncture, for term ending December 31, 1982;

CLINTON K. AKANA, to the Board of Barbers, for term ending December 31, 1981;

VIRGINIA M. LAU, to the Board of Barbers, for term ending December 31, 1980;

PATSY YORIMOTO, to the Board of Barbers, for term ending December 31, 1982;

SEIJI NAYA, Ph.D., to the Boxing Commission, for term ending December 31, 1982;

RICHARD A. SANDERSON and JACK C. WADA, to the CATV Advisory Committee, for terms ending December 31, 1982;

PATRICK V. CAIRES, to the Cemetery and Mortuary Board, for term ending December 31, 1982;

CLIFFORD H. DODO, to the Cemetery and Mortuary Board, for term ending December 31, 1981;

ALICE K. HAHN and MERVYN E. MASUMURA, to the Cemetery and Mortuary Board, for terms ending December 31, 1982;

MAVELYN KIM, to the Board of Chiropractic Examiners, for term ending December 31, 1980;

FRANCISCO V. MARIANO, to the Board of Chiropractic Examiners, for term ending December 31, 1981;

BRIAN M. O'BRIEN, D.C., to the Board of Chiropractic Examiners, for term ending December 31, 1982;

ROY H. TANAKA, D.C., to the Board of Chiropractic Examiners, for term ending December 31, 1979;

ALAN G. MEYERS, SR., KENNETH S. SHIOI and HARRY M. USHIJIMA, to the Contractors License Board, for terms ending December 31, 1982;

WARREN J. MAKALII, to the Board of Cosmetology, for term ending December 31, 1981;

LOUISE K. MCKEE, to the Board of Cosmetology, for term ending December 31, 1982;

BETTY KERNAGHAN and MASAO NAKASHIMA, to the Credit Union Review Board, for terms ending December 31, 1982;

DAN W. ANDERSEN, Ph.D., and PHILLIP J. BOSSERT, Ph.D., to the Advisory Committee on Degree Granting Institutions, for terms ending December 31, 1981;

ROBERT L. CUSHING, REV. DAVID H. SCHUYLER, S.M. and CHATT G. WRIGHT, to the Advisory Committee on Degree Granting Institutions, for terms ending December 31, 1982;

JEANNE N. MICHAEL, LIONEL Y. TOKIOKA and CHRIST P. ZIVALICH, JR., to the Advisory Committee on Degree Granting Institutions, for terms ending December 31, 1980;

EDWARD T.K. AU, D.D.S., and BEN H. HIRANO, D.D.S., to the Board of Dental Examiners, for terms ending December 31, 1982;

NAOMI R. CORREA, to the Board of Dental Examiners, for term ending December 31, 1981;

THOMAS J. JELF, to the Board of Dental Examiners, for term ending December 31, 1980;

GEORGE K. HALL, PEDRO E. RACELIS, JR., and GEORGE R. RODRIGUES, JR., to the Board of Electricians and Plumbers, for terms ending December 31, 1982;

ROBERT Y. MITO and ALFRED S.L. YUEN, to the Elevator Mechanics Licensing Board, for terms ending December 31, 1982;

JOHN PRIMACIO, to the Board of Registration of Professional Engineers, Architects, and Surveyors, for term ending December 31, 1981;

WALTER K. TAGAWA and AILEEN S. TOKUJO, to the Board of Registration of Professional Engineers, Architects, and Surveyors, for terms ending December 31, 1982;

ALAN T. DOI and RUSSELL M. SOLOMON, to the Board of Hearing Aid Dealers and Fitters, for terms ending December 31, 1982;

RICHARD W. MELTON, to the Board of Massage, for term ending December 31, 1982;

KENNETH NAKAMATSU, to the Board of Massage, for term ending December 31, 1981;

SHARON M. YOUNG, to the Board of Massage, for term ending December 31, 1980;

MALCOLM K. CROSBY and JOHN H.C. KIM, M.D., to the Board of Medical Examiners, for terms ending December 31, 1982;

EDWIN I. CLEVELAND, to the Motor Vehicle Repair Industry Board, for term ending December 31, 1982;

DAVID S. DE LUZ, SR., and CLARENCE H. OKA, to the Motor Vehicle Industry Licensing Board, for terms ending December 31, 1982;

RANDALL D. SOUZA, to the Motor Vehicle Repair Industry Board, for term ending December 31, 1981;

ALLAN S. TOTOKI, to the Motor Vehicle Repair Industry Board, for term ending December 31, 1982;

PACITA A. AGUILA and EDWARD J. MADISON, N.D., to the Board of Examiners in Naturopathy, for terms ending December 31, 1982;

ROXEANNE C. CLARK, to the State Board of Nursing, for term ending December 31, 1981;

RALPH J. KING, to the State Board of Nursing, for term ending December 31, 1980;

VIRGINIA S.K. KAM and GLENN T. SHIGEMURA, to the Board of Dispensing Opticians, for terms ending December 31, 1982;

REV. ROBERT F. MEYER, to the Board of Dispensing Opticians, for term ending December 31, 1981;

RONALD H. NAGANO, to the Board of Dispensing Opticians, for term ending December 31, 1980;

DAVID R. DeCOSTA and RONALD R. REYNOLDS, O.D., to the Board of Examiners in Optometry, for terms ending December 31, 1981;

STANLEY M. KURIYAMA, to the Board of Examiners in Optometry, for term ending December 31, 1980;

STANLEY J. YAMANE, O.D., to the Board of Examiners in Optometry, for term ending 31, 1982;

ALAN R. BECKER, D.O., to the Board of Osteopathic Examiners, for term ending December 31, 1982;

DOUGLAS H. KAYA, JR., to the Board of Osteopathic Examiners, for term ending December 31, 1981;

STELLA SATAKE to the Board of Osteopathic Examiners, for term ending December 31, 1980;

JAMES E. DeMELLO and WALTER W. OSHIMA, to the Board of Pharmacy, for terms ending December 31, 1982;

WILLIAM G. JOOR, JR., to the Board of Pharmacy, for term ending December 31, 1981;

FINN ANONSEN, to the Board of Pilot Commissioners, for term ending December 31, 1981;

JAMES K. DOWLING, to the Board of Pilot Commissioners, for term ending December 31, 1982;

DAVID B.K. LYMAN, III, to the Board of Pilot Commissioners, for term ending December 31, 1980;

JACK S. ANNON, Ph.D. and RAMON M. TANAKA, to the Board of Certification for Practicing Psychologists, for terms ending December 31, 1982;

JANET S. ISHIKAWA, Ph.D., to the Board of Certification for Practicing Psychologists, for term ending December 31, 1980;

PATRICIA N. REILE, to the Board of Certification for Practicing Psychologists, for term ending December 31, 1981;

FRANCIS N. KAUHANE, JR., to the Real Estate Commission, for term ending December 31, 1980;

GEORGE A. MORRIS, to the Real Estate Commission, for term ending December 31, 1982;

GREGG T. YAMANAKA, to the Real Estate Commission, for term ending December 31, 1981;

GLADYS PARK and GAILE A. SYKES, to the Board of Speech Pathology and Audiology, for terms ending December 31, 1981;

LESTER G. NAITO, D.V.M. and AL K. TAKAYAMA, D.V.M., to the Board of Veterinary Examiners, for terms ending December 31, 1982;

JOYCE L. OBLow, to the Board of Veterinary Examiners, for term ending December 31, 1981; and

LETITIA N. UYEHARA, to the Board of Veterinary Examiners, for term ending December 31, 1980.

Signed by all members of the Committee.

SCRep. 1203 Health on S.R. No. 130

The purpose of this resolution is to request the Department of Health to conduct a study on the "U" series treatment, developed by Dr. Henry Turkel.

The treatment is used to alleviate complications derived from Down Syndrome, a condition due to a genetic disorder with an almost normal life span. It has been felt by some in the medical profession that important steps can be taken to noticeably mitigate health

problems occurring during the life of a Down Syndrome individual.

The effectiveness of Dr. Turkel's treatment has been refuted by the Federal Food and Drug Administration, although it has been widely accepted by other countries, such as Japan. However, the controversy remains due to the FDA's method of examining this treatment. Conclusive evidence has been reported by other countries stating years of application and substantiating the effectiveness of this treatment. Nonetheless, the transportation for sale over state lines of the "U" series treatment is prohibited by the FDA.

Although, transportation for sale is prohibited, the treatment may be obtained from Dr. Turkel, if one is able to travel to Michigan. Only one parent in Hawaii has been able to take their child for such care.

Further, written testimony was submitted of a report published in 1967 by doctors in Japan who had conducted a research involving the use of the "U" series and purported significant mental developments in 39% of the males and 67% of the females tested. The research was conducted during a period of 1.5-2 years. Since then, Japan has continued using the "U" series treatment.

Your Committee finds that a study is needed to assess all available information on the "U" series treatment, with regard to the welfare of Down Syndrome individuals, so that we may aid them in living a normal life.

We further find that the lead agency is the Department of Health and it is within their responsibility to research the efficacy and value of such a treatment for the welfare of the State.

Your Committee has amended the resolution clarifying the issue at hand.

Your Committee on Health concurs with the intent and purpose of S.R. No. 130, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 130, S.D. 1.

Signed by all members of the Committee.

SCRep. 1204 (Majority) Health on S.R. No. 265

The purpose of this resolution is to request that the Mental Health Association in Hawaii be the lead agency in developing and formulating recommended standards for mental health patient's rights, including rights with regard to electroconvulsive therapy and associated medications.

Your Committee realizes the importance of providing for the rights of patients in hospitals and other treatment settings as a means of ensuring appropriate care and treatment of patients. We realize that the development and formulation of patient's rights standards for incorporation into medical practice, including hospitals and other health care facilities, will significantly aid in present efforts to ensure that patients have an adequate opportunity for relevant input into their care and treatment. It is your Committee's intent to include standards for mental health patients, with particular reference to electroconvulsive therapy and associated treatments.

Your Committee heard testimony recommending that the Mental Health Division/Department of Health be designated as the lead agency, rather than the Mental Health Association. It was questioned whether it is within the jurisdiction of the State to require a private agency, such as the Mental Health Association, to develop and recommend standards, without adequate appropriation of funds, and that the request should be directed to a department within the state government. Your Committee has amended the resolution accordingly.

Your Committee further amended the resolution by specifying the Department of the Attorney General and the Department of the Judiciary as participants in the development and recommendation of standards.

Your Committee on Health concurs with the intent and purpose of S.R. No. 265, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 265, S.D. 2.

Signed by all members of the Committee.
Senators Saiki and Yee did not concur.

SCRep. 1205 Health on S.R. No. 371

The purpose of this resolution is to request a study by the State Board of Nursing of

the current minimum educational requirements for entry into the practice of nursing.

Your Committee recognizes that nursing is a vital health care service requiring certain levels of education, training, and practical experience. Nurses' licensure in Hawaii is within the jurisdiction of the Board of Nursing which is vested with the responsibility of determining the qualification of individuals to practice nursing in the State.

Testimony from the State Board of Nursing stated that the Board has accepted the responsibility for attempting to keep abreast of the community needs and keeping the standards current, but there will be no attempt to change the standards until the Board can demonstrate and defend that it must be done for the sake of the public. The Board believes the purpose of standards is not to assure that there are no adverse effects, but that effects of practice are positive.

Recent consideration has been given to the amendment of the licensing statute to provide that licensure for registered nurses shall require a baccalaureate degree as a prerequisite to licensing. It is the intent of your Committee to study the many factors governing a decision regarding registered nurses' educational requirements. Such factors include the quality of nursing services currently available in Hawaii, the possible consumer impact of any policy change upon the availability of adequate nurses, and the perceivable and documented benefits of any such policy change.

Your Committee has amended the resolution by requesting the Board of Nursing to submit a preliminary report of its findings and recommendations to the legislature prior to the convening of the Regular Session of 1980, and a complete report to be submitted prior to the convening of the Regular Session of 1981. We have also made a minor change to clarify the resolution.

Your Committee on Health concurs with the intent and purpose of S.R. No. 371, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 371, S.D. 1.

Signed by all members of the Committee.

SCRep. 1206 Health on S.R. No. 418

The purpose of this resolution is to request a public education program relating to mental illness and substance abuse and the advantages of modern residential treatment.

Your Committee recognizes that transitional facilities in residential neighborhoods provide vital and effective therapy for certain types of mental health and substance abuse patients. We also realize that there seems to be a present lack of public understanding and unfounded fears of such facilities which act as obstacles to the establishment of these facilities.

Testimony from the Mental Health Association indicated the necessity for a full range of mental health services to be provided due to the diverse needs of our citizens. Further, psychiatric residential treatment facilities or halfway houses remain a critically necessary component in the community's mental health network.

Your Committee concurs with the recommendations from the Department of Health to include the Mental Health Association as a participant in the public education program, and to have the Department report on its activities relative to the resolution to the Legislature. We have amended the resolution accordingly.

It is the intent of your Committee that increased public education and awareness of the advantages, need, and benefits of these facilities, as well as the nature of mental illness and substance abuse, is necessary to inform the public of such facilities and health services for the general welfare of the State.

Your Committee on Health concurs with the intent and purpose of S.R. No. 418, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 418, S.D. 1.

Signed by all members of the Committee.

SCRep. 1207 Judiciary on S.R. No. 53

The purpose of this resolution is to ensure a careful review of Act 155 which was passed by the Legislature in 1978. Act 155 made numerous major amendments to the Uniform Commercial Code. These amendments will take effect July 1, 1979.

The intent of the Legislature in delaying the effective date by one year was to ensure that persons using the Code would become familiar with the changes and after review,

suggest any changes that might remove problems discovered during the interim. This procedure has previously been followed with the Penal Code, Probate Code, and the original adoption of the Uniform Commercial Code.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 53 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1208 Judiciary on S.R. No. 181

The purpose of this resolution is to require the Committee on Human Resources to review the treatment of female status offenders in the juvenile justice system.

Your Committee conducted a hearing on S.R. No. 181 on March 28, 1979, during which time testimony was presented by Judge Betty M. Vitousek, Senior Judge of the Family Court, and Dr. Meda Chesney-Lind, professor of sociology at Honolulu Community College. Both Judge Vitousek and Dr. Chesney-Lind expressed support for this resolution.

Dr. Chesney-Lind pointed out to the Committee that under present practice in Hawaii the juvenile justice system because of its structure and history encourages a double standard in the treatment of young female status offenders as opposed to their male and female counterparts charged with criminal crimes.

Upon recommendation from Judge Vitousek S.R. No. 181 has been amended to provide for an extension of time to allow the Committee on Human Resources to properly review the area of female status offenders. Accordingly, S.R. No. 181 has been amended to require the Committee on Human Resources to submit its findings and recommendations to the legislature ten days before the convening of the 1980 session rather than at the end of the 1979 session.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 181, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 181, S.D. 1.

Signed by all members of the Committee.

SCRep. 1209 Judiciary on S.R. No. 390

The purpose of this resolution is to study the feasibility of creating a department of public safety and corrections which will be separate from the Department of Social Services and Housing.

The Department of Social Services and Housing as presently structured includes, public welfare, public safety, state and federal housing projects, assistance to the elderly and handicapped, as well as the corrections department.

Your Committee finds that the grouping of such diverse areas within one department may work a serious disadvantage to the special needs of each specific agency.

Your Committee further finds that public safety in and of itself is a particularly complex area involving youth corrections, adult corrections, child abuse, and criminal injuries compensation and therefore, the placement of all these agencies under one department may enhance coordination and cohesiveness, resulting in a more effective and efficient manner of dealing with public safety.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 390 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1210 Judiciary on S.R. No. 392

The purpose of this resolution is to undertake a comprehensive review and redrafting of Hawaii's corporate laws to provide for uniformity in this area of law.

Your Committee finds that there is growing sentiment both among the members of the Hawaii bar and the state legislature that an exhaustive study of Hawaii's corporate laws be conducted. Such a review will be a substantial undertaking, involving public hearings during the interim prior to the Regular Session of 1980, and requiring assistance by the office of the legislative reference bureau to acquire additional input from community and

government agencies.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 392 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1211 Judiciary on S.R. No. 394

The purpose of this resolution is to study the master plan for a juvenile justice system as presented in the 1974 Juvenile Justice Plan and Supplement No. 1 (1979).

Your Committee recognizes the growing problem of juvenile crime in Hawaii. It feels that the integration and coordination among various agencies and departments involved with juvenile justice in the State is essential to a successful juvenile justice system. Therefore, your Committee believes it is necessary to closely examine the way in which the Juvenile Justice Plan and Supplement addresses the problem of juvenile crime and its solutions for reducing such crime.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 394 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1212 Judiciary on S.R. No. 395

The purpose of this bill is to request the Euthanair Review Committee of the Hawaiian Humane Society to study the use of alternate means to euthanize animals.

Your Committee finds that substantial testimony was presented on S.B. No. 1064, to the Senate Judiciary Committee, on whether the Euthanair chamber is a humane means of disposing of small animals. Because of the volume of testimony, your Committee also finds that further study is necessary, in regards to the levels of stress and pain incurred by small animals during euthanasia, and the possibility of using alternate means of disposing of animals. As such, the Euthanair Review Committee of the Human Society is requested to study these problems, and report their findings to the Senate Judiciary Committee prior to the Regular Session of 1980.

Your Committee, after further consideration, amended the resolution to include the department of health as the state agency to work with the Humane Society in conducting this study.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 395, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 395, S.D. 1.

Signed by all members of the Committee.

SCRep. 1213 Judiciary on S.R. No. 414

The purpose of this resolution is to request an interim study by the Senate Committee on Judiciary of the State of Hawaii's laws concerning guardianship, civil commitment, and protective services.

Your Committee finds that there is a continuing need for an evaluation of the laws and programs of the State to ascertain if the public health and welfare, as well as rights to due process, are adequately served by present laws relating to guardianship, civil commitment, and protective services.

Many citizens of the State, due to physical or mental disabilities, are unable to make choices for themselves or to adequately protect their rights. Various laws allow legal intervention in the lives of such disabled persons, effectively removing their right of choice, and vesting that right in another person. However, statutory procedures for civil commitment of mentally ill persons have previously been found to be in violation of the due process clause of the Fourteenth Amendment of the U. S. Constitution, resulting in confusion in connection with the treatment and possible civil commitment of persons who may be mentally disabled.

Testimony received by your Committee was unanimous in support of this resolution. The department of social services and housing particularly stressed the area of protective services as needing review. The department of social services and housing testimony noted both the population increase of those persons requiring protective services, and the need

for a coordinated program of services and laws ensuring that the special needs of this group are met, while at the same time protecting their rights.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 414 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1214 Judiciary on S.R. No. 428

The purpose of this resolution is to have the Senate Committee on Judiciary review the proposed statutory changes to the Hawaii Revised Statutes with the director of the Legislative Reference Bureau and the revisor of statutes.

During the 1979 Regular Session, the revisor, through the Legislative Reference Bureau, submitted a report and 103-page bill (S.B. No. 918-79; H.B. No. 1140-79) which was the result of an examination of each of the ten volumes of the Hawaii Revised Statutes to which nonsubstantive changes were proposed. Due to the volume of the bill and the time constraints placed on your Committee by a regular session, your Committee did not feel that there was sufficient time to thoroughly examine all proposed changes to the Hawaii Revised Statutes and to make appropriate recommendations to the Senate.

The director of the Legislative Reference Bureau informed your Committee that his office and the revisor will subsequently review the Hawaii Revised Statutes to determine the necessity of changes which they referred to as "not purely of a technical nature." Their report will again result in a proposed legislative bill of substantial length.

Your Committee feels that the extensive and concentrated examination that will be needed for such a bill, especially since it will contain more than technical, nonsubstantive changes to the Hawaii Revised Statutes, will require an interim study. Without such a study, your Committee feels that it will not have the time to adequately examine the bill during the Regular Session of 1980.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 428 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1215 Judiciary on S.R. No. 169

The purpose of this resolution is to review alternatives to jail incarceration for pretrial detainees.

Your Committee is concerned with the overcrowding in the Halawa Correctional Facility, the Keehi Annex, and the neighbor island Community Correctional Centers. Your Committee recognizes the high percentage of pretrial detainees as a primary cause of this overcrowding.

Your Committee feels it is essential that diversionary programs such as police citation, prosecutorial diversion, 10% stationhouse bail, and higher levels of release on recognizance be examined as possible solutions to the problem of overcrowding, because adequate space and security must be provided for the more dangerous inmates to insure the safety of our community.

Your Committee on Judiciary is in accord with the intent and purpose of S.R. No. 169 and recommends its adoption.

Signed by all members of the Committee except Senators Mizuguchi, Ushijima and Carroll.

SCRep. 1216 Judiciary on S.R. No. 413

The purpose of this resolution is to request an interim study on coordination between the sub-units of the state criminal justice system.

Your Committee finds that a comprehensive study is necessary to evaluate the available resources, the extent of duplicative effort, and the efficiency in coordination of the sub-units of the state criminal justice system.

Your Committee finds that of paramount importance in evaluating the efficiency and coordination of the sub-units of the criminal justice system, are the related information efforts. Most, if not all, sub-units in the system gather, share, and store information to implement

their respective policy objectives. Your Committee feels that careful examination should be given to the interface capabilities of the various computer and information systems, to the degree of duplication and of duplicate data bases, to the extent of cooperation and efficacy of the various efforts.

Your Committee feels that a healthy criminal justice system is one which is both efficient in the performance of its duties, and fair in fulfilling its functions. Your Committee feels that the criminal justice system must be both fiscally efficient and also efficient in terms of information gathering, processing, and sharing among the various other sub-units. The sub-units, to adequately complement and support each other, must have appropriate policy guidelines to both define and specify the liabilities, and to ensure confidentiality and integrity of information systems and interfaces without compromising the subunits' interaction.

Your Committee finds that the criminal justice system of the State of Hawaii is composed of agencies of different needs and requirements which obliges any information sharing system to be flexible to meet the particular needs of state or county agencies. A shared information system must reproduce information in a both meaningful and comprehensible manner if the system is to be viable.

Your Committee further finds study to be necessary in determining the extent and validity of computer use, data collection, and statistical analysis in the following agencies: the police departments, offices of the prosecutor of the respective counties, office of the attorney general, the judiciary, the corrections division, the state law enforcement planning agency, the crime commission, and any other subunit of the state criminal justice system. The Hawaii criminal justice information center, as established by H.B. No. 282, H.D. 1, requires examination in its functions and interactions as a subunit of the criminal justice center. The Hawaii crime commission, as established by statute, also requires examination in its functions and interactions in this area particularly with respect to the issues raised in the committee report attached to S.B. No. 1680, S.D. 1, H.D. 1, C.D. 1.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 413 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1217 Higher Education on S.R. No. 250

The purpose of this resolution is to urge the College of Tropical Agriculture and the College of Agriculture at the University of Hawaii at Hilo to establish intern work-experience programs in their respective agricultural curricula.

Your Committee received testimony from the Dean of the College of Tropical Agriculture of the University of Hawaii in support of this resolution. However, while expressing support, the Dean stated that their present resources do not allow for an internship program. He further stated that as a second best measure to providing for such a program, the College of Tropical Agriculture would continue to explore ways for increasing the present unstructured work experience program as well as relying on the laboratory farms.

Therefore, your Committee has amended the resolution to request the College of Tropical Agriculture and College of Agriculture to report to the legislature as to what additional resources would be required to establish and implement intern work-experience programs in the area of agricultural curricula.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 250 as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 250, S.D. 1.

Signed by all members of the Committee.

SCRep. 1218 Higher Education on S.R. No. 251

The purpose of this resolution is to request the appointment of an advisory committee with broad representation to include farmers and others directly engaged in agricultural production to study and further examine the needs of agricultural students enrolled at the Manoa and Hilo campuses of the University of Hawaii with particular attention to the adequacy of curriculum offerings as they relate to current needs and the adequacy of the curriculum offerings in tropical agriculture and to present appropriate recommendations.

Your Committee received testimony from the Dean of the College of Tropical Agriculture of the University of Hawaii in which he indicated agreement with the intent of the resolution.

However, the Dean expressed concern that the size and makeup of an advisory committee should not be excessively broad as to become unwieldy and incapable of effectively fulfilling the intent of the resolution. It was the desire of the University to work out the details of the role and function of the advisory committee and base the membership of the advisory group so that it would facilitate the effectiveness of that group.

Therefore, your Committee has amended the resolution to request the College of Tropical Agriculture and the College of Agriculture to submit a progress report, 20 days prior to the convening of the 1980 Regular Session, on the role, function and membership of such an advisory committee.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 251, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 251, S.D. 1.

Signed by all members of the Committee.

SCRep. 1219 Higher Education on S.R. No. 268

The purpose of this resolution is to request the University of Hawaii to report on the existing open channels of communication by which people of distinction may be nominated for consideration by the University for appropriate recognition and on how the issues addressed in S.B. No. 1780 can be met without additional legislation.

Your Committee received testimony from the Vice President for Academic Affairs of the University of Hawaii, Dr. Durward Long. His testimony stated that there are many in our society who, because of their contributions, should be honored. However, it is the policy of the University to be conservative and restrained in the awarding of honorary degrees in order to reserve them for the few persons of outstanding distinction, including Kupuna of such accomplishment. Further, his testimony stated that decisions to confer such degrees should be made exclusively by the Board of Regents after recommendation from the academic community and public.

Vice President Long's testimony also stated that prior to the convening of this session, his office began to evaluate the present policy and procedures with respect to honorary degrees and other means of recognition. This evaluation will soon be completed and this resolution will be helpful in the review and revision of policy and procedures. It was the position of the University that this resolution would be seriously considered within the context of the present evaluation.

Your Committee heard testimony on S.B. No. 1780 earlier this session which would provide for the establishment of a Hawaiian Higher Education Council. This Council would have the responsibility for selecting noted Kupuna for the awarding of a degree equal to a postgraduate degree at the University of Hawaii in the area of Hawaiian arts and sciences or Hawaiian education.

To reflect the issues addressed in S.B. No. 1780, your Committee has amended the resolution to also request the University of Hawaii to report on the feasibility of the establishment of a Hawaiian Higher Education Council to include, but not be limited to, details of membership, terms and functions.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 268, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 268, S.D. 1.

Signed by all members of the Committee.

SCRep. 1220 Higher Education on S.R. No. 432

The purpose of this resolution is to recognize and commend the exceptional accomplishments of the environmental studies program and request the University of Hawaii to prepare a feasibility study on the development of a B. A. major for the environmental studies program.

Your Committee heard unanimously supportive testimony from various sectors including the University of Hawaii Administration, University faculty, students, community environmental groups, the State Office of Environmental Quality Control and the Lieutenant Governor.

Your Committee finds that while the environmental studies program has made exceptional accomplishments in spite of limited operating funds and personnel, the existing program is continuing to operate solely through the Liberal Studies Program which only allows students to design their own environmental program within the framework of a Liberal

Studies Bachelor of Arts degree.

Based on the testimony presented and evidence of accomplishments of the environmental studies program, it is the opinion of your Committee that a progress report should be made to the Legislature prior to the convening of the 1980 Regular Session.

To this end, your Committee has amended the second BE IT FURTHER RESOLVED clause on page three of the resolution to more accurately reflect the type of report which should be submitted.

Your Committee on Higher Education 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. 1221 Judiciary on S.R. No. 142

The purpose of this resolution is to request a study examining the effects of property crime on the economy, the relationship of such crimes to other crimes, and possible measures to help curb the steady rise of such crimes.

The testimony of Peter Aurand, who compiled extensive statistical analysis on crime in Hawaii, clearly showed that Hawaii's crime rate is a major problem of our State. In particular, it showed the devastating effects of property crimes to the economy of our State. The testimony of the Department of Social Services and Housing indicated its concurrence with the intent of the resolution, and offered its cooperation to a study on crimes against property in Hawaii.

Your Committee has amended the resolution to include vital statistics relating to property crime in Hawaii, and to focus on particular aspects of property crime which require immediate attention.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 142 as amended herein, and recommends that it be referred to the Senate Committee on Legislative Management in the form attached hereto as S.R. No. 142, S.D. 1.

Signed by all members of the Committee except Senators Cobb, Ushijima, Carroll and Saiki.

SCRep. 1222 (Joint) Judiciary and Health on S.R. No. 416

The purpose of this resolution is to request a joint interim study by the Senate Committee on Judiciary and the Senate Committee on Health to determine the effects of tour bus traffic on the serenity and public health and welfare of Nuuanu Pali residents.

Your Committees are aware that the majestic beauty of Nuuanu Valley, long prized by both residents and visitors for its graceful waterfalls, gentle mists, and unbroken serenity, is one of Hawaii's most unique and priceless treasures.

Your Committees are also aware of the significant contribution of the visitor industry to the economy of Hawaii, and are therefore conscious of the need to preserve that serenity so vital to the beauty of Nuuanu Valley.

Your Committees also find that frequent tour bus traffic along Nuuanu Pali Drive has elicited numerous complaints from residents of that area in regard to noise, pollution, and invasions of privacy.

Inasmuch as both residents and the tourist industry may benefit from the preservation of serenity in Nuuanu Valley, your Committees recommend that an interim study be conducted to determine the effects of tour buses on the serenity and public health and welfare of Nuuanu Pali residents.

Your Committees further recommend that the study include definitions of the terms "serenity" and "public health and welfare" and when the limits of those terms are violated in regard to the Nuuanu Pali residential area.

Your Committees on Judiciary and Health concur with the intent and purpose of S.R. No. 416 and recommend that it be referred to the Committee on Legislative Management.

Signed by all members of the Committees except Senators Takitani, Ushijima, Saiki, Abercrombie and Yee.

SCRep. 1223 Judiciary on S.R. No. 488

The purpose of this resolution is to authorize an interim review of the jurisdiction of the office of consumer protection and the department of the Attorney General, particularly their overlapping and possibly conflicting jurisdiction in the area of monopolies and restraint of trade. The problem of overlapping jurisdiction between these offices will continue to increase as the scope of the jurisdiction of the consumer protection office grows.

The need for this study results from the inability of the Conference Committee on H.B. No. 556 to reach agreement. This decision resulted from the Committee's recognition of its need for more information on the problem, and the complexity of the law in the antitrust area.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 488 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Chong, Ushijima and Carroll.

SCRep. 1224 (Joint) Education and Health on S.R. No. 96

The Purpose of this resolution is to request the Department of Education to include in the health curriculum of the public schools information about epilepsy including measures which a bystander can use to assist a person suffering from an epileptic seizure.

Your Committees heard testimony from the Department of Education and from the State Planning and Advisory Council on Developmental Disabilities supporting this resolution. Both agencies reported that since epilepsy is a controllable condition, many of the epileptic person's social, educational, and employment problems can be reduced or eliminated if children and adults are informed about the condition. The Department of Education reported that information regarding the nature of the condition and instruction on safety measures in assisting a person suffering from a seizure are already being offered in the public schools.

Your Committees on Education and Health concur with the intent and purpose of S.R. No. 96 and recommend that it be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Chong and Anderson.

SCRep. 1225 (Joint) (Majority) Education and Health on S.R. No. 369

The purpose of this resolution is to request the Department of Health, in cooperation with the Department of Education, to conduct a study of the various problems associated with the nonparticipation of many students in the school lunch program.

Your Committees find that the Department of Health recognizes the importance of providing food with the proper nutrition for school children. The DOH indicated that such a study would assess the problem of food wastage, to explore the possibilities of serving the multi-ethnic population, and to determine the extent and reasons for the long-standing nonparticipation by many students in the school food services program.

Your Committees on Education and Health concur with the intent and purpose of S.R. No. 369 and recommend its adoption.

Signed by all members of the Committees except Senator Anderson.
Senators Kawasaki and Kuroda did not concur.

SCRep. 1226 (Majority) Education on S.R. No. 306

The purpose of this resolution is to recommend to the Department of Education and Board of Education that they encourage the public schools to utilize our shorelines as classrooms for marine studies.

Your Committee heard testimony from the Department of Education, the Curriculum Research and Development Group of the University of Hawaii College of Education, and the Marine Affairs Coordinator supporting this resolution. All of these agencies are in favor of encouraging the integration of marine oriented experiences into the the curricula of the public schools.

Your Committee on Education concurs with the intent and purpose of S.R. No. 306 and recommends its adoption.

Signed by all members of the Committee except Senator Anderson.
Senator Kawasaki did not concur.

SCRep. 1227 (Majority) Education on S.R. No. 434

The purpose of this resolution is to request that the Board of Education reconsider its policy decision of 1968 limiting the JROTC to only four high schools (Leilehua, Roosevelt, McKinley and Farrington).

Your Committee finds that since the moratorium has gone into effect, JROTC has flourished in other schools such as Kamehameha and Punahou Schools and finds that growing interest in JROTC has been expressed in schools without JROTC. We further find that high school graduates with JROTC training are given preference in applying at military academies.

Your Committee on Education concurs with the intent and purpose of S.R. No. 434 and recommends its adoption.

Signed by all members of the Committee except Senator Anderson.
Senator Kawasaki did not concur.

SCRep. 1228 (Majority) Education on H.C.R. No. 24

The purpose of this concurrent resolution is to request the Office of Children and Youth to study the need for after-school programs for elementary school aged children and to determine the resource requirements for a similar study of intermediate and high school aged children, and to report its findings and recommendations to the Legislature prior to the 1980 Regular Session.

Your Committee finds that there is very little information available as to the extent and kind of after-school care now available for children, and that because large numbers of parents in Hawaii are working on a full-time basis, it is important that there be adequate care available for children after schools close.

Your Committee on Education concurs with the intent and purpose of H.C.R. No. 24, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Anderson.
Senator Kawasaki did not concur.

SCRep. 1229 Education on H.C.R. No. 89

The purpose of this concurrent resolution is to request the United States President and Congress to enact legislation necessary to provide the full funding outlined in Public Law 94-142, the Education of All Handicapped Children Act of 1975, and to grant to the State of Hawaii and to other states the full funding stipulated in the Act for 1982 immediately such that all handicapped children can be provided free and appropriate public education immediately.

Your Committee finds that while the provision of Public Law 94-142 is consistent with the State of Hawaii's goal and commitment to assure equal educational opportunities for all children including handicapped children, the federal government's level of contribution to the cost of assuring these programs and services to handicapped children has been lower than provided for in the Act.

The Department of Education testified in support of the concurrent resolution. They reported that they will continue to work toward the provision of providing free and appropriate public education to all handicapped children. However, they also indicated that unless there is full and immediate funding by the federal government, it would be very difficult for the State to fully implement Public Law 94-142 and to stay within the frames stipulated in the Act.

The State Planning and Advisory Council on Developmental Disabilities also testified in support of the concurrent resolution agreeing that without additional funding, handicapped children will not receive adequate educational services.

Your Committee on Education concurs with the intent and purpose of H.C.R. No. 89, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1230 Education on Gov. Msg. Nos. 256, 257, 258, 259, 260, 261, 262, 263, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278 and 279

Recommending that the Senate advise and consent to the nominations of the following:

RAMONA H. HAO, EDWARD K. HASEGAWA, LEATRICE T. KAKESAKO and STEPHEN A. WERBEL, Ph.D., to the Hawaii Educational Council, for terms ending December 31, 1982;

BRIAN T. TAMAMOTO, to the Filipino 75th Anniversary Commission, for term ending December 31, 1981;

CANDACE K. LEE, SIDNEY K.E. LEONG and NAOMI R.N. LOSCH, to the King Kamehameha Celebration Commission, for terms ending December 31, 1982;

NANCY L. KEMP and LILLIAN A. LUM, to the Library Advisory Commission, City and County of Honolulu, for terms ending December 31, 1982;

KATHERINE S. HANLEY and SANDRA G. SHIROMA, to the Library Advisory Commission, County of Hawaii, for terms ending December 31, 1982;

BARTON H. NAGATA and MARINA PASCUA, to the Library Advisory Commission, County of Kauai, for terms ending December 31, 1982;

ELIZABETH ANN AULSEBROOK, to the Library Advisory Commission, County of Maui, for term ending December 31, 1981;

BARBARA F. KUSUDA and JITSUO MATSUBARA, to the Library Advisory Commission, County of Maui, for terms ending December 31, 1982;

KENICHI NAKATA, to the Library Advisory Commission, County of Maui, for term ending December 31, 1981;

MILDRED OKUDA, to the Library Advisory Commission, County of Maui, for term ending December 31, 1982;

MIKIO SATO, to the Library Advisory Commission, County of Maui, for term ending December 31, 1980; and

KAREN L. AH MAI, LUANN S. DAWSON and MYRA H. MEATOOGA, to the Hawaii Public Broadcasting Authority, for terms ending December 31, 1984.

Signed by all members of the Committee except Senator Anderson.

SCRep. 1231 (Joint) (Majority) Judiciary, Economic Development and Intergovernmental Relations on S.R. No. 431

The purpose of this resolution is to conduct a study regarding the concept of transferable development rights.

Your Committees received testimony from individuals and the Construction Industry Legislative Organization endorsing the study.

Your Committees conclude that this new concept in land use planning offers potential, far-reaching benefits to our State.

However, due to points of clarification raised by the department of planning and economic development and others on S.B. No. 1164 relating to the same subject matter, your Committees feel that extensive research in this complicated area, as called for by this resolution, is a necessity.

Your Committees on Judiciary, Economic Development and Intergovernmental Relations concur with the intent and purpose of S.R. No. 431 and recommend that it be referred to the Committee on Legislative Management.

Signed by all members of the Committees except Senators O'Connor, Saiki and Yee. Senator Abercrombie did not concur.

SCRep. 1232 (Joint) (Majority) Health and Judiciary on S.R. No. 85

The purpose of this resolution is to request the Attorney General of the United States to consider removing heroin from Schedule I of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and place it on Schedule II so that it can be used for medical purposes under the direct supervision and control of the federal government.

Your Committees recognize that in spite of rapid advances in medical research, cancer is the second leading cause of death both nationally and statewide. Testimony from the

National Committee on the Treatment of Intractable Pain cited that there is severe pain in more than 70% of hospitalized cancer patients. The Committee also cited the lack of adequate measures to address alleviating pain for critically ill persons and proposed the use of heroin in treating hospitalized cancer patients in severe pain.

The testimony further cited that after the discovery of heroin 100 years ago, and its recognition as an analgesic, that over-the-counter mismanagement occurred, in regard to the drug's addicting qualities, which led to its later prohibition in the United States.

The Cancer Center of Hawaii's testimony stated that the use of heroin in limited experiences has been applied in Europe. These experiences strongly support that it does have properties above and beyond the accepted and approved pain killers licensed for use by U.S. practitioners. Although, there have been few controlled experiments in its use, the cases reported to date suggest that the predominant fear in its use (leading to addiction) has not materialized. Further, the Center cites that it does not appear that addiction would enter the picture for most terminal cancer patients, because terminal generally means 3-6 months. In most cases, the severe pain problem occurs during the end phase.

Your Committees received testimony that at least 39 countries permit heroin use for medical and/or scientific research purposes, with Great Britain and Belgium being the prime countries in using heroin for pain control.

Research in Britain found heroin to be indispensable in about ten percent of cases of cancer pain when injections are necessary for pain too severe to be controlled by oral morphine. This is due to the greater solubility of heroin's hydrochloride. This research also indicated that when given intravenously, heroin has a quicker effect, is more sedative, and causes less vomiting than morphine.

The British experience indicates that heroin has definite advantages for some patients. While heroin remains in Schedule I of the Controlled Substances Act, thereby designating it of no medical use, it cannot legally be prescribed or administered to anyone, including terminally ill patients. The transfer of heroin from Schedule I to Schedule II would result in classifying the drug to be in the same restricted category as morphine, a conventional analgesic.

It is the intent of your Committees to promote education and research on more effective management and alleviation of intractable pain, particularly in terminally ill cancer patients, which is beyond the control of available drugs and conventional techniques.

Your Committees on Health and Judiciary concur with the intent and purpose of S.R. No. 85, and recommends its adoption.

Signed by all members of the Committees except Senator Ushijima.
Senators George, Saiki and Yee did not concur.

SCRep. 1233 Health on S.R. No. 129

The purpose of this resolution is to request a review of the adequacy of adult day activity for the developmentally disabled.

Your Committee recognizes that the developmentally disabled is a group needing special care, management and services appropriate to their individual needs and capabilities. We also recognize that training and habilitation services of day activity programs can result in further development of an individual so as to be partially or wholly selfsupporting.

The State Planning and Advisory Council on Developmental Disabilities cited that adult day activity programs are an essential ingredient to the developmental process, but have unfortunately been frequently viewed as a secondary program. Furthermore, through the training that clients receive in this type of program, the individual has the opportunity to develop additional skills in the areas of independent travel in the community, cooking and work skills, self-care and grooming, and most importantly, a sense of self-worth.

Your Committee realizes the potential long-term benefits to the State of such services and programs in terms of a more productive citizenry, minimized need for institutional care and the financial and human costs thereof. It is the intent of your Committee to assure that the potential advantages and benefits of adult day activities for the developmentally disabled not be ignored, and that the adequacy of existing programs be assessed.

Your Committee has amended the resolution to change the due date of the report to 10 days prior to the adjournment of the Regular Session of 1980. We have also made minor changes to the resolution for clarity.

Your Committee on Health concurs with the intent and purpose of S.R. No. 129, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 129, S.D. 1.

Signed by all members of the Committee except Senators Saiki and Yee.

SCRep. 1234 (Joint) Health and Ecology, Environment and Recreation on S.R. No. 365

The purpose of this resolution is to request a study on the effects of radioactive waste disposal in and around the waters of Pearl Harbor and West Oahu. In addition, the study should report future monitoring programs regarding this issue.

Presently, there is no regular, ongoing radiological monitoring program in the civilian areas surrounding Pearl Harbor, where nuclear submarines are home ported, nor is there any detailed emergency response system for that area in case of a nuclear accident or incident.

Release of radioactive waste by the Navy in Pearl Harbor and off the waters of west Oahu during 1960-1970, was recently confirmed. Presently, the Navy has confirmed reports of radioactive waste disposal by nuclear ships, and states that the level of disposal is not a serious problem. Reports also cited that the Navy has disposed 1,203,395 gallons of solid radioactive waste between 1963-1968. It was also noted that the Department of Health was aware of it. Your Committees find that a study should be conducted to affirm the impact on the marine life in the waters and effects to the State.

Testimony from scientists was received informing your Committees on the long-term effects from disposal of carcinogenic radioactive waste on the life cycle of the marine life. In addition, residents around the area, testified that local fishing occurs in these waters, which may have a serious impact on the State.

Testimony also indicated that highly trained, licensed health physicists, located in Hawaii, can conduct adequate monitoring for radioactive contamination of the air, water and marine life in civilian areas.

Department of Health testified that periodic sampling of the waters is taken and they did not believe it was necessary to require a continual intensive monitoring program. Yet, controversy remains on what is considered an acceptable low-level of radiation emission to the environment. The current federal standards determining this has been met with national opposition stating that the level accepted is 10% higher than what is considered safe.

In light of this, your Committees find that a study and a monitoring program is needed to assess the effects of radioactive waste disposal in and around the waters of Pearl Harbor and west Oahu. In addition, we further find that such a study should be conducted by an unbiased private agency knowledgeable in scientific methods to determine such effects. Your Committees have amended this resolution accordingly.

During the course of the hearing, testimony was given on concerns over potential future nuclear reactor accidents on nuclear ships. Your Committees are aware of potential damaging effects on the State, in light of the recent accident at the 3 mile island nuclear power plant in Pennsylvania. We have amended the resolution to request the Department of Health to establish safeguards regarding this to protect the people in this State.

Your Committees have made amendments by adding additional clauses clarifying the resolution. We have also added that consultation with the State Department of Defense be undertaken by the Department of Health in establishing and revising safety standards and programs for nuclear accidents.

Your Committees on Health and Ecology, Environment and Recreation concur with the intent and purpose of S.R. No. 365, as amended herein and recommend its adoption in the form attached hereto as S.R. No. 365, S.D. 1.

Signed by all members of the Committees.

SCRep. 1235 Health on S.R. No. 403

The purpose of this resolution is to request the Hawaii Congressional delegation to ask the U.S. Congress to review the allotments under the Public Health Service Act, Section 314D.

The Public Health Service Act is the federal legislation which appropriates funds to

each state in the nation on the basis of population and financial need. These funds are directed to services for family planning, community mental health, migrant health, community health, the National Health Services Corps, nurse training and others.

Your Committee recognizes that the establishment and continuation of many comprehensive public health services/ programs in the State are dependent on 314D financing. Your Committee does not wish to see these programs and services serving the people curtailed or stopped due to lack of adequate federal support.

Department of Health testimony noted that the budget as submitted by President Carter to Congress reflects a 40% reduction in 314D funds. In addition, the Association of State and Territorial Health Officials (ASTHO), of which the State Health Director is a member of the Executive Committee, has been lobbying in Congress for an increase in the per capita contribution.

The grants to the states, under Section 314D, have not kept pace with the escalating rate of inflation. It is the intent of your Committee to request that adjustments be made to the present 314D allotments in light of the current skyrocketing inflation factors, in order that health programs dependent on this federal financing can continue to benefit the health and well-being of the people of our State.

Your Committee has amended the resolution by adding additional clauses carifying the intent and language.

Your Committee on Health concurs with the intent and purpose of S.R. No. 403, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 403, S.D. 1.

Signed by all members of the Committee except Senators Saiki and Yee.

SCRep. 1236 Health on S.R. No. 404

The purpose of this resolution is to request a study to identify the "Gap Group", to cite what aid is presently available to them for payment of their medical bills, what types of potential assistance may be given for those who cannot qualify for aid now, and how this affects the State.

The Department of Social Services and Housing fully concurs that there is a need for some form of alternative health care programs for the average middle-income individual or family faced with catastrophic medical expenses. Your Committee realizes the cost of health care in Hawaii is rising and is becoming so prohibitive for some that they are forced to use their entire personal property before qualifying for state or federal aid.

These citizens are in the "Gap Group" who are ineligible for state aid under the present restrictive requirements which force them to become totally dependent on the State in order to qualify for assistance. This "Gap Group" includes senior citizens who must use their limited personal assets to pay for medical bills.

The elderly represent a vulnerable group since they are more susceptible to chronic health problems. Many of the elderly are now forced to rely only on Medicare. Kokua Council for Senior Citizens reports that last year, Medicare paid only 40% of hospital care, physicians and other health needs. It does not cover long term care.

It is the intent of your Committee to maintain the respect and dignity of many of our elderly citizens, and at the same time, identify the "Gap Group" and what types of potential assistance may be given for those who cannot qualify for aid.

Your Committee on Health concurs with the intent and purpose of S.R. No. 404, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Saiki and Yee.

SCRep. 1237 Health on S.R. No. 405

The purpose of this resolution is to request a study of the feasibility of using the declaration method to determine eligibility for family planning services.

The Department of Social Services and Housing and the Department of Health have demonstrated a progressive and solid commitment to the provision of family planning services. This is evidenced by the allocation of approximately 8% of their annual Title XX budget to family planning services.

Testimony from the Department of Social Services and Housing indicated that there are two methods available to them for determining eligibility for Title XX services. Presently, the documentation method is utilized in which the individual at the time of application is requested to verify and document the source and amount of their gross family income. The other method is the declaration method in which the applicant's statement about the source and amount of his or her family's gross monthly income is accepted.

Your Committee was advised that excessive proportions of the valuable Title XX service funds are currently expended in time consuming and costly administrative procedures associated with the documentation method. Further, the Department of Health has been criticized by the federal government for incurring these escalating administrative costs.

Testimony further cited the projected error rate using the declaration method to be too high to tolerate. In addition, the consequence of error rates is the reduction of federal funds.

Your Committee also realizes, however, that this present documentation system may currently be a barrier to clientele seeking these services due to the extensive paperwork, documentation and processing necessary. We also recognize that the accessibility and convenience of family planning services can encourage participation and be of benefit to those individuals.

It is the intent of your Committee to study the feasibility of changing to a less cumbersome mode of eligibility determination and its impact on the efficiency and effectiveness of the programs, with emphasis on the possible increased utilization of family planning services.

Your Committee has amended the resolution by requesting that a study be done jointly with the Department of Social Services and Housing and the Department of Health in order to coordinate efforts and needs, and to facilitate communication. The title has been amended to reflect the intent of the resolution. Further amendments were made to conform the resolution to reflect the request of a study, as well as to clarify language and intent.

Your Committee on Health concurs with the intent and purpose of S.R. No. 405, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 405, S.D. 1.

Signed by all members of the Committee except Senators Saiki and Yee.

SCRep. 1238 Human Resources on S.R. No. 263

The purpose of this resolution is to request the Hawaii Public Employment Relations Board, in cooperation with the Public Employees Management Association of Hawaii and the excluded unit of the Hawaii Government Employees Association, to establish standards or criteria for determining the applicability of the exclusionary provisions of Chapter 89, and more specifically of section 89-6(c) to specific positions and public employees within the State; and to request that HPERB submit a report on the established standards or criteria at least twenty days prior to the convening of the 1980 legislative session.

Your Committee finds that the lack of clear and equitable standards or criteria for determining the status of public employees may often cause a degree of uncertainty and hesitation in public employees who find themselves caught within the exclusion/inclusion problem of managerial, administrative, and confidential employees. Consequently, this prevents a clear self-identification of such employees with administration and management as a vital element of the management teams necessary to the orderly function and activities of government.

Your Committee feels that the development and consistent use of clear and equitable standards and criteria for determination of exclusionary status would greatly reduce the current problem of who shall be excluded, thus reducing problems of employee confusion and loss of morale. Your Committee feels that this will assist in the development of strong and effective management teams within the State and county governments.

Your Committee further finds that clear understanding by managerial and administrative personnel of their exclusionary status and clear identification as part of government management is essential to excellence of government and public services in the State.

Your Committee has amended this resolution to provide for the Department of Personnel Services, rather than the Hawaii Public Employment Relations Board, to establish standards or criteria for determining the applicability of the exclusionary provisions of Chapter 89; and to submit a report on such standards or criteria at least twenty days prior to the convening of the 1980 legislative session. Your Committee feels that the Department of Personnel Services is better suited to fulfill the request set forth in this resolution.

Your Committee on Human Resources concurs with the intent and purpose of S.R. No. 263, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 263, S.D. 1.

Signed by all members of the Committee except Senators Abercrombie, O'Connor and Soares.

SCRep. 1239 Health on S.C.R. No. 87

The purpose of this concurrent resolution is to request a study of health information needs of the State.

The rising cost of medical care is a major concern in the nation and our community. Your Committee concurs with the Hawaii Medical Service Association's testimony which indicated that the development and evaluation of cost containment programs are critically dependent upon the availability of comprehensive and accurate health information.

However, much of the necessary health data is not readily available which, in many cases, hampers health planners needing this information. Your Committee was advised that many private or public organizations possessing necessary health data have policies or privacy concerns regarding the release or use of data. These concerns for the assurance of constitutionally required privacy, authorized utilization of information, and adequate controls to prohibit unauthorized usage are both real and legitimate.

Your Committee also recognizes that coordinated and systematically interfaced health data can be of substantial value to medical research, and that coordinated data systems are vital to ensure strong and efficient planning, and more effective implementation of policy. We further recognize that the basis for creating a health information system is to bring together knowledge concerning data and its availability from both public and private agencies.

Your Committee concurs with the intent and purpose of S.C.R. No. 87, and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Chong.

SCRep. 1240 Health on S.C.R. No. 90

The purpose of this concurrent resolution is to request the Legislative Auditor to study special purpose revenue bonds as they relate to health care facilities, and the pertinence of the utilization of special purpose revenue bonds for health care facilities to achieving health goals of this State.

HMSA testified in support of this concurrent resolution stating that the proposed tax-exempt special revenue bonds will lower interest costs for hospital capital improvement projects. This method of financing will lower the overhead costs of Hawaii's hospitals and enable them to pass on interest savings to their patients. This effort will help to mitigate health costs to keep in line with the general economy, and will result in slower rises in hospital charges.

Your Committee is fully aware of the benefits for the hospitals derived from such a proposal, and is also concern on the overall impact to the people of this State.

We find that such a study is necessary to assess the following:

- (1) Perceivable cost impact of bonds on consumers' health care costs;
- (2) Identification of intended uses of the savings achieved by health care facilities who have requested such bonds, and the relative proportions of the savings earmarked for specific or general purposes;
- (3) Development of suggested guidelines for passing such cost savings to individual consumers and possible requirements of a plan and statement of how a facility intends to implement the cost savings with regard to consumers;
- (4) Cost/benefit and other appropriate analyses of types of projects for which such revenue bonds may be used, such as financing for new construction, or for the refinancing of existing debt, and the appropriateness and implications of each;
- (5) Analysis of the use of special purpose revenue bonds and its consistency with a

long-term goal of wellness and preventive health care, and the philosophical and practical implications of assisting in the expansion of health methodologies traditionally developed in response to health problems rather than as tools for prevention;

(6) Consideration of probable impact of future utilization of special purpose revenue bonds and the efficacy of such future use in meeting the health needs of the people; and

(7) Identification and consideration of other factors which influence or which may be affected by the issuance of special purpose revenue bonds for health care facilities.

Your Committee further finds that a complete analysis should be done on all ramifications of the issuance of such bonds, to ensure the future welfare of this State.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 90 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Chong.

SCRep. 1241 Health on S.C.R. No. 91

The purpose of this resolution is to request a study of the feasibility of public purchasing of materials for private nonprofit health care facilities.

Your Committee is aware that the high cost of health care is a matter posing a significant barrier to ensuring accessibility of adequate and appropriate health care for the people of the State, and that no single solution exists to keep health care costs at the lowest possible levels. Therefore, there is a need to consider a broad variety, of possible actions which may contribute to assuring the lowest health care costs.

One of these actions is the public purchasing of various materials for private nonprofit health care facilities on a reimbursement basis. This purchasing position of the State may result in lower materials costs for such facilities, which could lower overhead costs, and lower the amount ultimately billed to patients.

The Health Care Purchasing Group of the Hospital Association of Hawaii, Shared Services, Incorporated, stated that a purchasing program for private nonprofit health care facilities within the State has been in existence since 1977. Testimony indicated that this program is responsible for the execution and administration of contracts for the purchase of medical supplies and food products by private nonprofit health care facilities on a program cost reimbursable basis. The program uses the committed volume of participating private nonprofit health care facilities to obtain their supplies at substantially lower costs than would be possible otherwise. The Group further stated that this program has been totally successful in creating and maintaining a viable cost containment posture for our private nonprofit health care facilities.

It is your Committee's findings that the feasibility of this type of program which can result in cost-savings for the consumer is in the best interest for the citizens of our State.

Your Committee has amended the resolution to reflect the intent of studying both the feasibility of creating a purchasing program within the State purchasing department, as well as utilizing existing services, such as that of the Health Care Purchasing Group.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 91, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 91, S.D. 1.

Signed by all members of the Committee except Senator Chong.

SCRep. 1242 (Majority) Health on S.C.R. No. 95

The purpose of this concurrent resolution is to show the Senate's intent to rebuild the facility for the care and treatment of Hansen's Disease, and further requests an inspection to be conducted for the purpose of certifying the present facility as an interim Boarding Home Facility, pending construction of a new residential care home at Hale Mohalu.

Your Committee has heard considerable testimony on the issue of Hale Mohalu throughout the legislative session. The 1979 Legislature has appropriated funds to transfer the leprosy program from Leahi Hospital to Hale Mohalu, Pearl City in fiscal year 1981. A total of \$255,795 has been recommended for contractual services, operating expenses, and specialized medical services at the new residential care home facility. In addition, \$350,000, has also been appropriated to the construction of such a facility that any unencumbered balances

from previous Acts of the Legislature be used for the construction of a new facility at Hale Mohalu.

Your Committee finds that the moral and human value, in regard to the needs of Hansen's Disease patients, be given due consideration, as well as considering the economic factors associated with the rebuilding of a leprosy facility at Pearl City.

Your Committee further finds that an inspection of the present buildings at Hale Mohalu, in compliance with life safety codes, be conducted for the purpose of certifying the present facility for use as an interim boarding home facility, until construction of a new building is completed. Upon certification as a boarding home facility, the Director of Health is requested to restore food, water and electrical services at the present facility.

Your Committee amended the concurrent resolution to be in line with recent developments concerning this issue.

It is the intent of your Committee that these recommendations be carried out and duly implemented as outlined in the legislative budget proposal.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 95, as amended herein and recommends its referral to the Committee on Legislative Management in the form attached hereto as S.C.R. No. 95, S.D. 1.

Signed by all members of the Committee except Senator Takitani.
Senators Saiki and Yee did not concur.

SCRep. 1243 (Majority) Health on S.R. No. 407

The purpose of this resolution is to show the Senate's intent to rebuild the facility for the care and treatment of Hansen's Disease, and further requests an inspection to be conducted for the purpose of certifying the present facility as an interim Boarding Home Facility, pending construction of a new residential care home at Hale Mohalu.

Your Committee has heard considerable testimony on the issue of Hale Mohalu throughout the legislative session. The 1979 Legislature has appropriated funds to transfer the leprosy program from Leahi Hospital to Hale Mohalu, Pearl City in fiscal year 1981. A total of \$255,795 has been recommended for contractual services, operating expenses, and specialized medical services at the new residential care home facility. In addition, \$350,000, has also been appropriated to the construction of such a facility that any unencumbered balances from previous Acts of the Legislature be used for the construction of a new facility at Hale Mohalu.

Your Committee finds that the moral and human value, in regard to the needs of Hansen's Disease patients, be given due consideration, as well as considering the economic factors associated with the rebuilding of a leprosy facility at Pearl City.

Your Committee further finds that an inspection of the present buildings at Hale Mohalu, in compliance with life safety codes, be conducted for the purpose of certifying the present facility for use as an interim boarding home facility, until construction of a new building is completed. Upon certification as a boarding home facility, the Director of Health is requested to restore food, water and electrical services at the present facility.

Your Committee amended the resolution to be in line with recent developments concerning this issue.

It is the intent of your Committee that these recommendations be carried out and duly implemented as outlined in the legislative budget proposal.

Your Committee on Health concurs with the intent and purpose of S.R. No. 407, as amended herein and recommends its referral to the Committee on Legislative Management in the form attached hereto as S.R. No. 407, S.D. 1.

Signed by all members of the Committee except Senator Takitani.
Senators Saiki and Yee did not concur.

SCRep. 1244 Housing and Hawaiian Homes on S.R. No. 444

The purpose of this resolution is to request the Senate Committee on Housing and Hawaiian Homes to conduct an interim review of the issues related to the State Housing Plan, including suggested amendments to the Plan, to ensure appropriate Legislative overview.

Your Committee on Housing and Hawaiian Homes concurs with the intent and purpose of S.R. No. 444 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Hara and Soares.

SCRep. 1245 Housing and Hawaiian Homes on S.R. No. 446

The purpose of this resolution is to commend the University of Hawaii's Pacific Urban Studies and Planning Program, and the Department of Architecture for providing their perspectives on the redevelopment of the Kakaako area.

Your Committee has requested the Pacific Urban Studies and Planning Program to consider directing its graduate students, through its Practicum course, to further study the applicability of the concept of land readjustment to the Kakaako area.

Your Committee on Housing and Hawaiian Homes concurs with the intent and purpose of S.R. No. 446 and recommends its adoption.

Signed by all members of the Committee except Senator Hara and Soares.

SCRep. 1246 Higher Education on Gov. Msg. Nos. 379, 380, 382, 383, 384, 385 and 386

Recommending that the Senate advise and consent to the nominations of the following:

HERMAN J. GERBER, S.M., to the State Post-Secondary Education Commission, for term ending December 31, 1981;

ROBIN F. LOOMIS, to the State Post-Secondary Education Commission, for term ending December 31, 1982;

ROBERT M. FUJIMOTO, to the Board of Regents, University of Hawaii, for term ending December 31, 1981;

GERARD A. JERVIS and MICHAEL J. MORIARTY, to the Board of Regents, University of Hawaii, for term ending December 31, 1980; and

STANLEY Y. MUKAI and AMBROSE J. ROSEHILL, to the Board of Regents, University of Hawaii, for terms ending December 31, 1982.

Signed by all members of the Committee except Senators Ushijima and Saiki.

SCRep. 1247 (Majority) Consumer Protection and Commerce on Gov. Msg. No. 146

Recommending that the Senate advise and consent to the nomination of DERL W. GREEN, to the Board of Cosmetology, for term ending December 31, 1980.

Signed by all members of the Committee except Senators Chong, O'Connor and Ushijima.
Senator Yee did not concur.

SCRep. 1248 Consumer Protection and Commerce on S.C.R. No. 82

The purpose of this concurrent resolution is to study and review the exemptions from the general excise tax given for unrelated revenue producing activities by banks, insurance companies and building and loan associations.

Your Committee notes that over the years banks, insurance companies and building and loan associations have become involved in other revenue producing activities which were not foreseen at the time exemptions from the general excise tax were granted. Consequently, they have appeared to have gained a tax advantage over business enterprises which are engaged primarily in these activities. Your Committee is thus in favor of conducting this study to determine whether these financial institutions should or should not be exempt from our state excise tax.

Your Committee has amended this concurrent resolution by deleting the provision which required the participation of the Department of Regulatory Agencies in this study and review thereby leaving the Department of Taxation as the agency primarily responsible. In addition, the resolution would also provide that certified copies be given to representatives of the banking, insurance and building and loan industries.

Your Committee on Consumer Protection and Commerce concurs with the intent and

purpose of S.C.R. No. 82, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 82, S.D. 1.

Signed by all members of the Committee except Senators O'Connor, Ushijima, Saiki and Yee.

SCRep. 1249 Consumer Protection and Commerce on S.R. No. 354

The purpose of this resolution is to study and review the exemptions from the general excise tax given for unrelated revenue producing activities by banks, insurance companies and building and loan associations.

Your Committee notes that over the years banks, insurance companies and building and loan associations have become involved in other revenue producing activities which were not foreseen at the time exemptions from the general excise tax were granted. Consequently, they have appeared to have gained a tax advantage over business enterprises which are engaged primarily in these activities. Your Committee is thus in favor of conducting this study to determine whether these financial institutions should or should not be exempt from our state excise tax.

Your Committee has amended this resolution by deleting the provision which required the participation of the Department of Regulatory Agencies in this study and review thereby leaving the Department of Taxation as the agency primarily responsible. In addition, the resolution would also provide that certified copies be given to representatives of the banking, insurance and building and loan industries.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 354, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 354, S.D. 1.

Signed by all members of the Committee except Senators O'Connor, Ushijima, Saiki and Yee.

SCRep. 1250 Economic Development on Gov. Msg. No. 51

Recommending that the Senate advise and consent to the nomination of HIDEITO KONO, as Director, Department of Planning and Economic Development, for term ending December 6, 1982.

Signed by all members of the Committee.

SCRep. 1251 (Majority) Health on Gov. Msg. No. 47

Recommending that the Senate advise and consent to the nomination of GEORGE A.L. YUEN, as Director, Department of Health, for term ending December 6, 1982.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 1252 (Majority) Health on Gov. Msg. No. 292

Recommending that the Senate advise and consent to the nomination of GEORGE A.L. YUEN, to the Statewide Health Coordinating Council, for term ending December 31, 1982.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 1253 Legislative Management

Informing the Senate that S.R. Nos. 477 to 488 and Stand. Com. Rep. Nos. 1103 to 1252 have been printed and are ready for distribution.

Signed by all members of the Committee.